INSTRUCTIONS

TO THE

ENVOYS EXTRAORDINARY

AND

MINISTERS PLENIPOTENTIARY

FROM THE

United States of AMERICA,

TO THE

FRENCH REPUBLIC,

THEIR

LETTERS OF CREDENCE AND FULL POWERS;

AND THE

DISPATCHES

RECEIVED FROM THEM

RELATIVE TO THEIR MISSION.

PUBLISHED BY THE SECRETARY OF STATE,
In conformity with the Resolution of Congress, of the 22d June 1798.

PHILADELPHIA:
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Fifth Congreſs of the United States,

AT THE SECOND SESSION.

RESOLVED *by the Senate and Houſe of Repreſentatives of the United States of America, in Congreſs aſſembled, That the Secretary of State be, and he hereby is authorized and directed to cauſe to be printed a number of copies, not exceeding ten thouſand, of the inſtructions to the envoys extraordinary and miniſters plenipotentiary of the United States to the French Republic, and of all the diſpatches hitherto received from them, and which have been communicated by the Preſident of the United States to both Houſes of Congreſs; and to cauſe the ſame to be diſtributed, gratis, throughout the United States, and particularly in ſuch parts thereof wherein the diſſemination of information, through the medium of news-papers, is moſt obſtructed.*

JONATHAN DAYTON,
Speaker of the Houſe of Repreſentatives.
TH: JEFFERSON,
Vice-Preſident of the United States, and Preſident of the Senate.

Approved—June 22, 1798.
JOHN ADAMS,
Preſident of the United States.

In the Houſe of Repreſentatives of the United States,

Monday, the 2d of April, 1798.

RESOLVED, *That the Preſident of the United States be requeſted to communicate to this Houſe, the inſtructions to, and diſpatches from the envoys extraordinary from the United States to the French Republic, mentioned in his meſſage of the nineteenth ultimo.*

Extract from the Journal.

JONATHAN W. CONDY, *Clerk.*

BRITISH MUSEUM

MESSAGE *of the* PRESIDENT *of the* UNITED STATES, *to both Houſes of* CONGRESS.

Gentlemen of the Senate, and
Gentlemen of the Houſe of Repreſentatives,

IN compliance with the requeſt of the Houſe of Repreſentatives, expreſſed in their reſolution of the ſecond of this month, I tranſmit to both Houſes, *thoſe inſtructions to* and *diſpatches* from, the *Envoys Extraordinary* of the *United States* to the *French Republic*, which were mentioned in my meſſage of the nineteenth of March laſt, omitting only ſome names, and a few expreſſions deſcriptive of the perſons.

I requeſt that they may be conſidered in confidence, until the members of Congreſs are fully poſſeſſed of their contents, and ſhall have had opportunity to deliberate on the conſequences of their publication; after which time I ſubmit them to your wiſdom.

JOHN ADAMS.

United States,
April 3d, 1798.

INSTRUCTIONS

To Charles Coteſworth Pinckney, John Marſhall, and Elbridge Gerry, Eſquires, Envoys Extraordinary and Miniſters Plenipotentiary, from the United States of America to the French Republic.

GENTLEMEN,

IT is known to you, that the people of the United States of America entertained a warm and ſincere affection for the people of France, ever ſince their arms were united in the war with Great Britain, which ended in the full and formal acknowledgement of the Independence of theſe States. It is known to you, that this affection was ardent, when the French determined to reform their government and eſtabliſh it on the baſis of liberty; that liberty in which the people of the United States were born, and which in the concluſion of the war above mentioned was finally and firmly ſecured. It is known to you, that this affection roſe to enthuſiaſm, when the war was kindled between France and the powers of Europe, which were combined againſt her for the

avowed purpoſe of reſtoring the monarchy; and every where vows were heard for the ſucceſs of the French arms. Yet during this period France expreſſed no wiſh that the United States ſhould depart from their neutrality. And while no duty required us to enter into the war, and our beſt intereſts urged us to remain at peace, the government determined to take a neutral ſtation: which being taken, the duties of an impartial neutrality became indiſpenſably binding. Hence the government early proclaimed to our citizens the nature of thoſe duties and the conſequences of their violation.

The miniſter of France, Mr. Genet, who arrived about this time, by his public declarations, confirmed the idea, that France did not deſire us to quit the ground we had taken. His meaſures, however, were calculated to deſtroy our neutrality and to draw us into the war.

The principles of the proclamation of neutrality, founded on the law of nations, which is the law of the land, were afterwards recognized by the National Legiſlature, and the obſervance of them enforced by ſpecific penalties, in the act of Congreſs paſſed the fifth of June 1794. By theſe principles and laws the acts of the executive and the deciſions of the courts of the United States were regulated.

A government thus fair and upright in its principles and juſt and impartial in its conduct, might have confidently hoped to be ſecure againſt formal official cenſure: but the United States have not been ſo fortunate. The acts of their government, in its various branches, though pure in principle and impartial in operation, and conformable to their indiſpenſible rights of ſovereignty, have been aſſigned as the cauſe of the offenſive and injurious meaſures of the French Republic. For proofs of the former, all the acts of the government may be vouched; while the aſperſions ſo freely uttered by the French miniſters, the refuſal to hear the miniſter of the United States ſpecially charged to enter on amicable diſcuſſions on all the topics of complaint, the decrees of the Executive Directory and of their agents, the depredations on our commerce and the violences againſt the perſons of our citizens, are evidences of the latter. Theſe injuries and depredations will conſtitute an important ſubject of your diſcuſſions with the government of the French Republic; and for all theſe wrongs you will ſeek redreſs.

In reſpect to the depredations on our commerce, the principal objects will be, to agree on an equitable mode of examining and deciding the claims of our citizens, and the manner and periods of making them compenſation. As to the firſt, the ſeventh article of the Britiſh and the twenty-firſt of the Spaniſh treaty preſent approved precedents to be adopted with France. The propoſed mode of adjuſting thoſe claims, by commiſſioners appointed on each ſide, is ſo perfectly fair, we cannot imagine that it will be refuſed. But when the claims are adjuſted, if payment in ſpecie cannot be obtained, it may be found neceſſary to agree, in behalf of our citizens, that they ſhall accept public ſecurities, payable with intereſt at ſuch periods as the ſtate of the French finances ſhall render practicable. Theſe periods you will endeavour as far as poſſible to ſhorten.

Not only the recent depredations, under colour of the decrees of the Directory of the ſecond of July 1796 and the ſecond of March 1797, or under the decrees of their agents, or the illegal ſentences of their tribunals, but all prior ones, not already ſatisfactorily adjuſted, ſhould be put

in this equitable train of ſettlement. To cancel many or all of the laſt mentioned claims, might be the effect of the decree of the Executive Directory of the ſecond of March laſt, reviving the decree of the 9th of May 1793: but this being an *ex poſt facto* regulation, as well as a violation of the treaty between the United States and France, cannot be obligatory on the former. Indeed the greater part, probably nearly all the captures and confiſcations in queſtion, have been committed in direct violation of that treaty or of the law of nations. But the injuries ariſing from the capture of enemies property in veſſels of the United States, may not be very extenſive; and if for ſuch captured property the French government will, agreeably to the law of nations, pay the freight and reaſonable demurrage, we ſhall not, on this account any farther contend. But of ſhip timber and naval ſtores taken and confiſcated by the French, they ought to pay the full value; becauſe our citizens continued their traffic in thoſe articles under the faith of the treaty with France. On theſe two points we ought to expect that the French government will not refuſe to do us juſtice: and the more, becauſe it has not, at any period of the war, expreſſed its deſire that the commercial treaty ſhould in theſe reſpects be altered.

Beſides the claims of our citizens for depredations on their property, there are many ariſing from expreſs contracts made with the French government or its agents, or founded on the ſeizure of their property in French ports. Other claims have ariſen from the long detention of a multitude of our veſſels in the ports of France. The wrong hereby done to our citizens was acknowledged by the French government, and in ſome, perhaps in moſt of the caſes, ſmall payments towards indemnifications have been made; the reſidue ſtill remains to be claimed.

All theſe juſt demands of our citizens will merit your attention. The beſt poſſible means of compenſation muſt be attempted. Theſe will depend on what you ſhall diſcover to be practicable in relation to the French finances. But an exception muſt be made in reſpect to debts due to our citizens by the contracts of the French government and its agents, if they are comprehended in any ſtipulation; and an option reſerved to them, jointly or individually, either to accept the means of payment which you ſhall ſtipulate, or to reſort to the French government, directly, for the fulfilment of its contracts.

Although the reparation for loſſes ſuſtained by the citizens of the United States, in conſequence of irregular or illegal captures or condemnations, or forcible ſeizures or detentions, is of very high importance, and is to be preſſed with the greateſt earneſtneſs, yet it is not to be inſiſted on as an indiſpenſible condition of the propoſed treaty. You are not, however, to renounce theſe claims of our citizens, nor to ſtipulate that they be aſſumed by the United States as a loan to the French government.

In reſpect to the alterations of the commercial treaty with France, in the two caſes which have been principal ſubjects of complaint on her part, viz. enemies property in neutral ſhips, and the articles contraband of war; although France can have no right to claim the annulling of ſtipulations at the moment when by both parties they were originally intended to operate; yet if the French government preſs for alterations, the Preſident has no difficulty in ſubſtituting the principles of the law of nations, as ſtated in the 17th and 18th articles of our commercial treaty

with Great Britain, to thoſe of the 23d and 24th articles of our commercial treaty with France: and in reſpect to proviſions, and other articles not uſually deemed contraband, you are to agree only on a temporary compromiſe, like that in the 18th article of the Britiſh treaty, and of the ſame duration. If however, in order to ſatisfy France *now ſhe is at war*, we change the two important articles before mentioned, then the 14th article of the French treaty, which ſubjects the property of the neutral nation found on board enemies ſhips to capture and condemnation, muſt of courſe be aboliſhed.

We have witneſſed ſo many erroneous conſtructions of the treaty with France, even in its plaineſt parts, it will be neceſſary to examine every article critically, for the purpoſe of preventing, as far as human wiſdom can prevent, all future miſinterpretations. The kind of documents neceſſary for the protection of the neutral veſſels ſhould be enumerated and minutely deſcribed; the caſes in which a ſea-letter ſhould be required may be ſpecified; the want of a ſea-letter ſhould not of itſelf be a cauſe of confiſcation, where other reaſonable proof of property is produced; and where ſuch proof is furniſhed, the want of a ſea-letter ſhould go no further than to ſave the captor from damages for detaining and bringing in the neutral veſſel. The proportion of the veſſel's crew which may be foreigners ſhould be agreed on. Perhaps it will be expedient to introduce divers other regulations conformably to the marine laws of France. Whenever theſe are to operate on the commerce of the United States, our ſafety requires that, as far as poſſible, they be fixed by treaty. And it will be deſirable to ſtipulate againſt any *ex poſt facto law* or regulation, under any pretence whatever.

Great Britain has often claimed a right, and practiſed upon it, to prohibit neutral nations carrying on a commerce with her enemies which had not been allowed in time of peace. On this head, it will be deſirable to come to an explicit underſtanding with France; and, if poſſible, to obviate the claim by an expreſs ſtipulation.

Such extenſive depredations have been committed on the commerce of neutrals, and eſpecially of the United States, by the citizens of France, under pretence that her enemies (particularly Great Britain) have done the ſame things, it will be deſirable to have it explicitly ſtipulated, that the conduct of an enemy towards the neutral power ſhall not authorize or excuſe the other belligerent power in any departure from the law of nations or the ſtipulations of the treaty: eſpecially that the veſſels of the neutral nation ſhall never be captured or detained, or their property confiſcated or injured, becauſe bound to or from an enemy's port, except the caſe of a blockaded port, the entering into which may be prevented according to the known rule of the law of nations. And it may be expedient to define a blockaded place or port to be one actually inveſted by land or naval forces, or both, and that no *declaration* of a blockade ſhall have any effect without ſuch actual inveſtment. And no commercial right whatever ſhould be abandoned which is ſecured to neutral powers by the European law of nations.

The foregoing articles being thoſe which the French government has made the oſtenſible grounds of its principal complaints, they have naturally been firſt brought into view. But the propoſed alterations and arrangements ſuggeſt the propriety of reviſing all our treaties with France. In ſuch reviſion, the firſt object that will attract your atten-

tion, is the reciprocal guaranty, in the eleventh article of the treaty of alliance. This guaranty we are perfectly willing to renounce. The guaranty, by France, of the liberty, sovereignty, and independence of the United States, will add nothing to our security; while, on the contrary, our guaranty of the possessions of France in America, will perpetually expose us to the risque and expense of war, or to disputes and questions concerning our national faith.

When Mr. Genet was sent as the minister of the French Republic to the United States, its situation was embarrassed, and the success of its measures problematical. In such circumstances it was natural that France should turn her eye to the mutual guaranty: and accordingly it was required, in Mr. Genet's instructions, to be "an essential clause in the new treaty," which he was to propose: and on the ground "that it nearly concerned the peace and prosperity of the French nation, that a people whose resources increase beyond all calculation, and whom nature had placed so near their rich colonies, should become interested, by their own engagements, in the preservation of those islands." But at this time, France, powerful by her victories, and secure in her triumphs, may less regard the reciprocal guaranty with the United States, and be willing to relinquish it. As a substitute for the reciprocal guaranty, may be proposed a mutual renunciation of the same territories and possessions, that were subjects of the guaranty and renunciation in the sixth and eleventh articles of the treaty of alliance. Such a renunciation on our part, would obviate the reason assigned in the instruction to Mr. Genet before cited, *of future danger from the rapidly growing power of the United States.* But if France insists on the mutual guaranty, it will be necessary to aim at some modification of it.

The existing engagement is of that kind which, by writers on the law of nations, is called a general guaranty; of course the *casus fœderis* can never occur except in a *defensive* war. The nature of this obligation is understood to be, that when a war *really* and *truly defensive* exists, the engaging nation is bound to furnish an *effectual and adequate defence*, in co-operation with the power attacked: whence it follows, that the nation *may* be required, in some circumstances, to bring forward its whole force. The nature and extent of the succours demandable not being ascertained, engagements of this kind are dangerous on account of their uncertainty: there is always hazard of doing too much or too little, and of course of being involved in involuntary rupture.

Specific succours have the advantage of certainty, and are less liable to occasion war. On the other hand, a general guaranty allows a latitude for the exercise of judgment and discretion.

On the part of the United States, instead of troops or ships of war, it will be convenient to stipulate for a moderate sum of money or quantity of provisions, at the option of France: the provisions to be delivered at our own ports, in any future *defensive* wars. The sum of money, or its value in provisions, ought not to exceed two hundred thousand dollars a year, during any such wars. The reciprocal stipulation, on the part of France, may be to furnish annually the like sum of money, or an equivalent in military stores and cloathing for troops, at the option of the United States, to be delivered in the ports of France.

Particular caution, however, muſt be uſed, in diſcuſſing this ſubject, not to admit any claims, on the ground of the guaranty, in relation to the exiſting war; as we do not allow that the *caſus fœderis* applies to it. And if the war ſhould continue after your arrival in France, and the queſtion of the guaranty ſhould not be mentioned on her part, you may yourſelves be ſilent on the ſubject, if you deem it moſt prudent.

It will be proper here to notice ſuch articles of the treaty of amity and commerce, between the United States and France, as have been differently conſtrued by the two governments, or which it may be expedient to amend or explain.

Article 2. The aſſent of the United States, in their treaty with Great Britain, to the doctrine of the law of nations reſpecting enemies' property in neutral ſhips, and ſhip timber and naval ſtores, and in ſome caſes proviſions, as contraband of war, the French government has choſen to conſider as a voluntary *grant of favours*, in reſpect to commerce and navigation, to Great Britain, and that conſequently the ſame favours have become common to France. This conſtruction is ſo foreign from our ideas of the meaning and deſign of this article, it ſhews the neceſſity of reviewing all the articles, and however clear they may appear, of attempting to obviate future miſconſtructions, by declaratory explanations or a change of terms.

Article 5. France has repeatedly contended, that the impoſition of fifty per cent. per ton, on French veſſels arriving in the United States, is contrary to the fifth article of the treaty. The arguments in ſupport of this pretenſion are unknown; but it is preſumed to be unfounded. The reciprocal right of laying "duties or impoſts of what nature ſoever," equal to thoſe impoſed on the moſt favoured nations, and without any other reſtrictions, ſeems to be clearly ſettled by the third and fourth articles. The fifth article appears to have been intended merely to define or qualify the rights of American veſſels in France. It is however deſirable that the queſtion be underſtood, and all doubt concerning it removed. But the introduction of a principle of diſcrimination between the veſſels of different foreign nations, and in derogation of the powers of Congreſs to raiſe revenue by uniform duties on any objects whatever, cannot be hazarded. The naturalization of French veſſels will of courſe be conſidered as inadmiſſible.

Article 8. The ſtipulation of doing us good offices, to ſecure peace to the United States with the Barbary powers, has never yet procured us any advantage. If therefore the French Government lays any ſtreſs on this ſtipulation, as authorizing a claim for ſome other engagement from us in favour of France, it may be abandoned; and eſpecially if its abrogation can be applied as a ſet-off againſt ſome exiſting French claim.

Article 14. If the alterations already propoſed are made in the 23d and 24th articles, then the 14th article, as before obſerved, muſt be aboliſhed.

Article 17th. The conſtruction put on this article by the government of the United States is conceived to be reaſonable and juſt, and is therefore to be inſiſted on. The tribunals of the reſpective countries will conſequently be juſtified in taking cognizance of all captures made

within their reſpective juriſdictions; or by illegal privateers; and thoſe of one country will be deemed illegal which are fitted out in the country of the other remaining neutral: ſeeing to permit ſuch arming would violate the neutral duties of the latter.

It will be expedient to fix explicitly the reception to be given *to public ſhips of war* of all nations. The French Miniſters have demanded, that the public ſhips of the enemies of France, which at any time, and in any part of the world, had made prize of a French veſſel, ſhould be excluded from the ports of the United States; although they brought in no prize with them. In oppoſition to this demand, we have contended that they were to be excluded only when they came in with French prizes. And the kind of aſylum to be afforded in all other circumſtances, is deſcribed in Mr. Jefferſon's Letter to Mr. Hammond, dated the 9th of September 1793, in the following words: "Thus then, the *public ſhips of war* of "both nations [Engliſh and French] enjoy a perfect equality in our "ports; 1ſt, in caſes of urgent neceſſity; 2d, in caſes of comfort or "convenience; and 3d, in the time they chooſe to continue." And ſuch ſhelter and accommodation are due to the public ſhips of all nations, on the principle of hoſpitality among friendly nations.

It will alſo be expedient explicitly to declare that the right of aſylum ſtipulated for the armed veſſels of France and their prizes, gives no right to make ſale of thoſe prizes.

But when prize ſhips are ſo diſabled as to be incapable of putting to ſea again, until refitted, and when they are utterly diſabled, ſome proviſion is neceſſary relative to their cargoes. Both caſes occurred laſt year. The government permitted, though with heſitation and caution, the cargoes to be unloaded, one of the veſſels to be repaired, and part of the prize goods ſold, to pay for the repairs, and the cargo of the veſſel that was found unfit ever to go to ſea again, was allowed to be exported as *prize goods*, even in neutral bottoms. The doubts on theſe occaſions aroſe from the 24th article of the Britiſh treaty, forbidding the ſale of the prizes of privateers, or the exchanging of the ſame in any manner whatever. But as French prizes were entitled to an aſylum in our ports, it was conceived to be a reaſonable conſtruction of it, to allow of ſuch proceedings as thoſe above mentioned, to prevent the total loſs of veſſels and cargoes. The 25th article of the Britiſh treaty demands attention; as it is therein ſtipulated, that no future treaty ſhall be made that ſhall be inconſiſtent with that or the 24th article. Another doubt aroſe, whether the Britiſh treaty did not, in good faith, require the prohibition of the ſale of prizes made by the *National ſhips* of France, as well as of thoſe made by her privateers; eſpecially ſeeing our treaty with France gave her no right to ſell any prizes whatever: but upon the whole, it was conceived that the United States having before allowed the ſale of ſuch prizes, and the prohibition in the 24th article of the treaty being diſtinctly pointed againſt the ſale of the prizes of *Privateers*, it was thought proper to permit the former practice to continue, until the Executive ſhould make and publiſh a prohibition of the ſale of all prizes, or that Congreſs ſhould paſs a prohibitory law.

ARTICLE 22d. If in new modelling the treaty with France, the total prohibition of the ſale of prizes in the ports of the party remaining neutral ſhould not be agreed on, at leaſt the right of each power to make at its

pleaſure ſuch prohibition, whether they are prizes of National ſhips or privateers, ſhould be acknowledged, for the reaſon more than once ſuggeſted—to prevent a repetition of claims upon unfounded conſtructions; ſuch as under the preſent article, that a *prohibition* to an *enemy* of either party, is a *grant* to the *other* of the thing forbidden.

ARTICLES 23d and 24th. Theſe have been already conſidered, and the alterations propoſed have been mentioned.

There have been ſo many unjuſt cauſes and pretences aſſigned for capturing and confiſcating American veſſels, it may perhaps be impoſſible to guard againſt a repetition of them in any treaty which can be deviſed. To ſtate the cauſes and pretences that have been already advanced by the Government of France, its agents and tribunals, as the grounds of the capture and condemnation of American veſſels and cargoes, would doubtleſs give pain to any man of an ingenuous mind, who ſhould be employed on the part of France to negociate another treaty, or a modification of the treaties which exiſt. It is not deſired therefore, to go farther into detail on theſe matters, than ſhall be neceſſary to guard, by explicit ſtipulations, againſt future miſconſtructions and the miſchiefs they will naturally produce.

Under pretence that certain ports were ſurrendered to the Engliſh by the treachery of the French and Dutch inhabitants, Victor Hugues and Lebas, the ſpecial agents of the Executive Directory, at Guadaloupe, have declared that all neutral veſſels bound to or from ſuch ports ſhall be good prize.

Under the pretence that the Britiſh were taking all neutral veſſels bound to or from French ports, the French agents at St. Domingo (Santhonax and others) decreed that all *American* veſſels bound to or from Engliſh ports, ſhould be captured; and they have ſince declared ſuch captured veſſels to be good prize. The French conſuls in Spain have, on the ſame ground, condemned a number of American veſſels, merely becauſe they were deſtined to, or coming from, an Engliſh port.

Under the pretence, that the ſea-letters or paſſports preſcribed by the commercial treaty for the mutual advantage of the merchants and navigators of the two nations, to ſave their veſſels from detention and other vexations, when met with at ſea, by preſenting ſo clear a proof of the property, are an indiſpenſible document to be found on board, the French confiſcate American veſſels deſtitute of them, even when they acknowledge the property to be American.

Becauſe horſes and their military furniture, when deſtined to any enemy's port, are by the 24th article of the commercial treaty declared contraband, and as ſuch by themſelves only liable to confiſcation, Hugues and Lebas decreed all *neutral veſſels*, having horſes or any other contraband goods on board, ſhould be good prize; and they accordingly condemned veſſels and cargoes.

The ancient ordinances of the French monarchs required a variety of papers to be on board neutral veſſels, the want of any one of which is made a cauſe of condemnation; although the 25th article of the commercial treaty mentions what certificates ſhall accompany the merchant veſſels and cargoes of each party, and which, by every reaſonable conſtruction, ought to give them protection.

It will therefore be adviſable to guard againſt abuſes by deſcending to particulars: to deſcribe the ſhips papers which ſhall be required, and to

declare that the want of any other ſhall not be a cauſe for confiſcation; to fix the mode of manning veſſels as to the officers, and the proportion of the crews who ſhall be citizens; endeavouring to provide, in reſpect to American veſſels, that more than one third may be foreigners. This proviſion will be important to the Southern ſtates, which have but few native ſeamen.

The marine ordinances of France will ſhow what regulations have been required to be obſerved by allied as well as neutral powers in general to aſcertain and ſecure the property of neutrals. Some of theſe regulations may be highly proper to be adopted; while others may be inconvenient and burthenſome. Your aim will be to render the documents and formalities as few and as ſimple as will conſiſt with a fair and regular commerce.

Articles 25 and 27. Theſe two articles ſhould be rendered conformable to each other. The 27th ſays, that after the exhibition of the *paſſport*, the veſſel ſhall be allowed to paſs without moleſtation or ſearch, without giving her chace, or forcing her to quit her intended courſe. The 25th requires that beſides the *paſſport*, veſſels ſhall be furniſhed with certain *certificates*, which of courſe muſt alſo be exhibited. It will be expedient to add, that if in the face of ſuch evidence, the armed veſſel will carry the other into port, and the papers are found conformable to treaty, the captors ſhall be condemned in all the charges, damages and intereſts thereof, which they ſhall have cauſed. A proviſion of this nature is made in the eleventh article of our treaty with the United Netherlands.

Article 28. The prohibited goods here mentioned have no relation to contraband; but merely to ſuch as *by the laws of the country are forbidden to be exported*. Yet in the caſe of exporting horſes from Virginia, which no law prohibited, in the winter of 1796, this article was applied by the French Miniſter to *horſes*, which by the French treaty are contraband of war. And a letter from the Miniſter to Victor Hugues and Lebas, informing them that the American Government refuſed to prevent ſuch export of horſes by the Britiſh, is made one ground for their decree above mentioned.

Article 30. The veſſels of the United States ought to be admitted into the ports of France in the ſame manner as the veſſels of France are admitted into the ports of the United States. But ſuch a ſtipulation ought not to authorize the admiſſion of veſſels of either party into the ports of the other, into which the admiſſion of all foreign veſſels ſhall be forbidden by the laws of France and of the United States, reſpectively. With this reſtriction, the principles of the 14th article of the treaty with Great Britain afford a liberal and unexceptionable precedent. A reſtriction like that here referred to will be found in the firſt paragraph of the third article of the Britiſh Treaty.

The commerce to the French colonies in the Eaſt and Weſt Indies, will doubtleſs be more or leſs reſtricted, according to the uſage of other European nations. Yet on account of the diſarranged condition of the French navigation, probably a larger latitude of trade with their colonies will be readily permitted for a term of years: and perhaps the mutual advantages thence reſulting will be found ſo great as to induce afterwards a prolongation of that term, to which the courſe or habit of buſineſs may contribute.

While between the United States and France there ſhall ſubſiſt a perfect reciprocity in reſpect to commerce, we muſt endeavour to extend our trade to her colonies to as many articles as poſſible. Of theſe the moſt important are proviſions of all kinds, as beef, pork, flour, butter, cheeſe, fiſh, grain, pulſe, live ſtock, and every other article ſerving for food, which is the produce of the country, horſes, mules, timber, planks, and wood of all kinds, cabinet ware and other manufactures of the United States; and to obtain in return all the articles of the produce of thoſe colonies, without exception, at leaſt to the value of the cargoes carried to thoſe colonies.

There have been different conſtructions of the Conſular Convention. The French have contended for the execution of their conſular deciſions, by the marſhal or other officer of the United States; and their miniſter of juſtice has formally ſtated, in a report to the miniſter of foreign affairs, that the judicial ſentences of the American conſuls in France, will be executed by certain officers of juſtice in that country. The legal opinion of the law officers of the United States, which the government has adopted, oppoſes ſuch a conſtruction. The French have alſo contended, that deſerters from French veſſels ought to be apprehended by the judicial officers of the United States, upon other evidence than the original ſhipping paper, or *rôle d'equipage;* whereas the diſtrict judges have inſiſted that the Conſular Convention requires the original rôle to be produced. This claim was lately revived by the conſul-general of the French Republic. The correſpondence on this occaſion will be joined to the other documents which accompany theſe inſtructions.

The United States cannot conſent to the erecting of foreign tribunals within their juriſdiction. We conſider the judicial authority of conſuls, as deſcribed in the Conſular Convention, to be voluntary, not compulſory, in the country where they reſide; and that their deciſions, if not obeyed by the parties reſpectively, muſt be enforced by the laws of their proper country; and ſuch a proviſion you will ſee has been made in France, where a penalty of 1400 livres is impoſed on the citizen who refuſes obedience to a conſular deciſion in a foreign ſtate.

The Conſular Convention will expire in about four years; and if any great difficulties ariſe in ſettling the terms of a new one, that which exiſts muſt take its courſe: but if the French government ſhould be ſilent on the ſubject of the Conſular Convention, ſilence may be obſerved on your part.

The ports of the United States being frequented by the veſſels of different belligerent powers, it became neceſſary to regulate the times of their ſailing. The Preſident, therefore, adopted what was underſtood to be the received rule in Europe; and ordered, that after the ſailing of a veſſel of one of the belligerent powers, twenty-four hours ſhould elapſe before an armed veſſel of the enemy of the former ſhould ſet ſail. This rule has not been duly reſpected by the armed veſſels of France and Great Britain.

As the tranquility of the United States requires, that no hoſtile movements be commenced within their juriſdiction; and the intereſts of commerce demand an entire freedom to the departure of veſſels from their ports, it may be expedient expreſſly to recognize the above mentioned rule.

It will alſo be expedient to agree on the extent of territorial juriſdic-

tion on the ſea-coaſt; and in what ſituations bays and ſounds may be ſaid to be land-locked, and within the juriſdiction of the ſovereign of the adjacent country.

On the ſuppoſition that a treaty will be negociated to alter and amend the treaties which now exiſt between France and the United States, the following leading principles, to govern the negociation, are ſubjoined.

1. Conſcious integrity authorizes the government to inſiſt, that no blame or cenſure be directly or indirectly imputed to the United States. But on the other hand, however exceptionable, in the view of our own government, and in the eyes of an impartial world, may have been the conduct of France, yet ſhe may be unwilling to acknowledge any aggreſſions; and we do not wiſh to wound her feelings, or to excite reſentment. It will therefore be beſt to adopt, on this point, the principle of the Britiſh treaty, and "terminate our differences, in ſuch manner, "as, without referring to the merits of our reſpective complaints and "pretenſions, may be the beſt calculated to produce mutual ſatisfaction, "and good underſtanding."

2. That no aid be ſtipulated in favour of France during the preſent war.

3. That no engagement be made inconſiſtent with the obligations of any prior treaty.

4. That no reſtraint on our lawful commerce with any other nation be admitted.

5. That no ſtipulation be made, under colour of which, tribunals can be eſtabliſhed within our juriſdiction, or perſonal privileges claimed by French citizens, incompatible with the complete ſovereignty and independence of the United States, in matters of policy, commerce and government.

It will be expedient to limit the duration of the treaty to a term of from ten to twenty years. Such changes in the circumſtances of the two parties are likely to happen within either of thoſe periods, as to give one or both good reaſon to deſire a change in the conditions of the treaty. From this limitation may be excepted ſuch articles as are declaratory of a ſtate of peace, or as are intended to regulate the conduct of the two nations at the commencement of, or during a ſtate of war, or which are founded in morality and juſtice, and are in their nature of perpetual obligation. Of this kind may be conſidered the tenth article of the treaty with Great Britain; which therefore may very properly be introduced into the treaty with France.

Finally, the great object of the government being to do juſtice to France and her citizens, if in any thing we have injured them; to obtain juſtice for the multiplied injuries they have committed againſt us; and to preſerve peace; your ſtyle and manner of proceeding will be ſuch as ſhall moſt directly tend to ſecure theſe objects. There may be ſuch a change of men and meaſures in France as will authorize, perhaps render politic, the uſe of ſtrong language, in deſcribing the treatment we have received. On the other hand, the French government may be determined to fruſtrate the negociation, and throw the odium on this country; in which caſe, any thing like warmth and harſhneſs would be made the pretext. If things remain in their preſent ſituation, the ſtyle of repreſentation will unite, as much as poſſible, calm dignity with ſimplicity, force of ſentiment with mildneſs of language, and be calculated

to impreſs an idea of inflexible perſeverance rather than of diſtruſt or confidence.

With theſe inſtructions you will receive the following documents.

1. The printed ſtate papers containing the correſpondence between the Secretary of State and the French Miniſter, Mr. Genet.

2. The letter dated January 16th, 1797, from the Secretary of State to General Pinckney, and the documents therein referred to, in which all the known complaints of the French government, ſince the recall of Mr. Genet, are exhibited and diſcuſſed.

3. A report from the Secretary of State to the Houſe of Repreſentatives, dated the 27th of February, 1797, exhibiting the ſtate of American claims which had been preſented to the French government (but few of which had been ſatisfied) together with ſome further information relative to the depredations, by the officers and people of that nation on the commerce of the United States.

4. A report made by the Secretary of State to the Preſident of the United States, on the 21ſt of June, 1797, and by him laid before Congreſs on the 22d.

5. Certain original depoſitions, proteſts, and other papers relative to the French ſpoliations on the commerce, and perſonal inſults and injuries to the citizens of the United States.

6. The documents laid before the Houſe of Repreſentatives the 17th of May, 1797, relative to General Pinckney's miſſion to Paris, and comprehending ſome papers relative to the capture and condemnation of American veſſels by the French.

7. The correſpondence with the French Conſul-General Létombe, relative to the Conſular Convention.

TIMOTHY PICKERING,
Secretary of State.

DEPARTMENT OF STATE,
Philadelphia, July 15, 1797.

LETTERS of CREDENCE and FULL POWERS to the Envoys from the United States to the French Republic.

LETTERS OF CREDENCE.

JOHN ADAMS, Preſident of the United States of America,
To the Executive Directory of the French Republic.

Citizens Directors,

DESIROUS of terminating all differences between the United States of America and the French Republic, and of reſtoring that harmony and good underſtanding, and that commercial and friendly intercourſe, which from the commencement of their political connection, until lately, have ſo happily ſubſiſted, I have nominated, and by and with the advice and conſent of the Senate of the United States, oppointed Charles Cotesworth Pinckney, John Marſhall, and Elbridge Gerry, diſtinguiſhed citi-

zens of these states, jointly and severally, Envoys Extraordinary and Ministers Plenipotentiary to the French Republic, for the purpose of accomplishing the great objects above-mentioned: Wherefore I pray you, Citizens Directors, to give full credence to what they and each of them shall say to you in these respects, in behalf of the United States, and also when they shall assure you of the sincerity of our wishes for the welfare of the French Republic.

GIVEN under my hand, and the great seal of the United States of America, at Philadelphia, the thirteenth day of July, in the year 1797, and of the Independence of these states the twenty-second.

JOHN ADAMS.

By the President of the United States,

TIMOTHY PICKERING, *Secretary of State.*

FULL POWERS.

JOHN ADAMS, President of the United States of America,

To all whom these presents shall concern—GREETING:

KNOW YE, That for the purpose of terminating all differences between the United States of America and the French Republic, and of restoring and confirming perfect harmony and good understanding, and re-establishing a commercial and friendly intercourse between them, and reposing a special trust and confidence in the integrity, prudence and abilities of Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, Citizens of the said United States, I have nominated, and, by and with the advice and consent of the Senate, appointed the said Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, jointly and severally, Envoys Extraordinary and Ministers Plenipotentiary of the United States to the French Republic; hereby giving and granting to them and any and each of them, full power and authority, and also a general and special command, for and in the name of the United States to meet and confer with the Ministers, Commissioners or deputies of the French Republic, being furnished with the like full powers, whether separately or jointly, and with them to treat, consult and negociate, of and concerning all claims, and all matters and causes of difference, subsisting between the United States and the French Republic, for the purpose of satisfying and terminating the same in a just and equitable manner; and also of and concerning the general commerce between the United States and France, and all other the dominions of the French Republic; and to conclude and sign a treaty or treaties, convention or conventions, touching the premises; transmitting the same to the President of the United States of America for his final ratification, by and with the advice and consent of the Senate of the United States, if such advice and consent shall be given.

IN TESTIMONY WHEREOF, I have caused the seal of the United States to be hereunto affixed.

GIVEN under my hand at the City of Philadelphia, the twenty-second day of June, in the year of our Lord one thousand seven hundred and ninety-seven, and of the Independence of the United States of America, the twenty-first.

JOHN ADAMS.

By the President of the United States,

TIMOTHY PICKERING, *Secretary of State.*

Department of State, April 3d, 1798.

THE names designated by the letters W. X. Y. Z. in the following copies of letters from the Envoys of the United States to the French Republic, are, in the originals, written at full length, in cyphers. For the same reason that single letters are thus taken to designate certain persons named in the letters, other words descriptive of them are omitted.

TIMOTHY PICKERING.

DISPATCHES from the Envoys to the Secretary of State.

(No. 1.)

Paris, October 22d, 1797.

Dear Sir,

ALL of us having arrived at Paris on the evening of the fourth instant, on the next day we verbally and unofficially informed the minister of foreign affairs therewith, and desired to know when he would be at leisure to receive one of our secretaries with the official notification: he appointed the next day at two o'clock; when Major Rutledge waited on him with the following letter:

Citizen Minister,

The United States of America being desirous of terminating all differences between them and the French Republic, and of restoring that harmony and good understanding, and that commercial and friendly intercourse, which from the commencement of their political connection until lately have so happily subsisted, the President has nominated, and by and with the advice and consent of the Senate has appointed us, the undersigned, jointly and severally, Envoys Extraordinary and Ministers Plenipotentiary to the French Republic, for the purpose of accomplishing these great objects. In pursuance of such nomination and appointment, and with such view having come to Paris, we wish, Citizen Minister, to wait on you at any hour you will be pleased to appoint, to present the copy of our letters of credence; and whilst we evince our sincere and ardent desire for the speedy restoration of friendship and harmony between the two republics, we flatter ourselves with your concurrence in the accomplishment of this desirable event. We request you will accept the assurances of our perfect esteem and consideration.

Paris, October 6th, in the 22d year of American Independence.

(Signed) CHARLES COTESWORTH PINCKNEY,
JOHN MARSHALL,
ELBRIDGE GERRY.

To this letter the minister gave a verbal answer, that he would see us the day after the morrow (the 8th) at one o'clock. Accordingly at that hour and day we waited on the minister at his house, where his office is held, when, being informed he was not at home, the secretary-general of the department told Major Rutledge, that the minister was obliged to wait on the Directory, and requested we would suspend our visit till three

o'clock. At which hour we called. The miniſter we found was then engaged with the Portugueſe miniſter, who retired in about ten minutes, when we were introduced and produced the copy of our letters of credence, which the miniſter peruſed and kept. He informed us, "that the Directory had required him to make a report relative to the ſituation of the United States with regard to France, which he was then about, and which would be finiſhed in a few days, when he would let us know what ſteps were to follow." We aſked if cards of hoſpitality were in the mean time neceſſary? He ſaid they were, and that they ſhould be delivered to us; and he immediately rung for his ſecretary and directed him to make them out. The converſation was carried on by him in French, and by us in our own language.

The next day cards of hoſpitality were ſent to us and our ſecretaries, in a ſtyle ſuitable to our official character.

On Saturday the 14th, Major Mountflorence informed General Pinckney, that he had a converſation with Mr. Oſmond, the private and confidential ſecretary of the miniſter of foreign affairs, who told him, that the Directory were greatly exaſperated at ſome parts of the Preſident's ſpeech, at the opening of the laſt ſeſſion of Congreſs, and would require an explanation of them from us. The particular parts were not mentioned. In another converſation on the ſame day the ſecretary informed the major, that the miniſter had told him it was probable we ſhould not have a public audience of the Directory till ſuch time as our negociation was finiſhed, that probably perſons might be appointed to treat with us, but they would report to him, and he would have the direction of the negociation. The Major did not conceal from Mr. Oſmond his intention to communicate theſe converſations to us.

In the morning of October the eighteenth, Mr. W. . . . of the houſe of . . . . . called on General Pinckney and informed him, that a Mr. X. who was in Paris and whom the General had ſeen . . . . . was a gentleman of conſiderable credit and reputation . . . . . and that we might place great reliance on him.

In the evening of the ſame day, Mr. X. called on General Pinckney, and after having ſat ſome time . . . . . whiſpered him, that he had a meſſage from M. Talleyrand to communicate, when he was at leiſure. General Pinckney immediately withdrew with him into another room; and when they were alone Mr. X. ſaid, that he was charged with a buſineſs in which he was a novice; that he had been acquainted with M. Talleyrand . . . . . and that he was ſure he had a great regard for [America] and its citizens; and was very deſirous, that a reconciliation ſhould be brought about with France; that to effectuate that end, he was ready, if it was thought proper, to ſuggeſt a plan, confidentially, that M. Talleyrand expected would anſwer the purpoſe. General Pinckney ſaid he ſhould be glad to hear it. M. X. replied, that the Directory, and particularly two of the members of it, were exceedingly irritated at ſome paſſages of the Preſident's ſpeech, and deſired that they ſhould be ſoftened; and that this ſtep would be neceſſary previous to our reception: that beſides this, a ſum of money was required for the pocket of the Directory and miniſters, which would be at the diſpoſal of M. Talleyrand: and that a loan would alſo be inſiſted on. M. X. ſaid, if we acceded to theſe meaſures, M. Talleyrand had no

doubt that all our differences with France might be accommodated. On enquiry, M. X. could not point out the particulr paſſages of the ſpeech that had given offence, nor the quantum of the loan, but mentioned that the douceur for the pocket was twelve hundred thouſand livres, about fifty thouſand pounds ſterling. General Pinckney told him, his colleagues and himſelf, from the time of their arrival here, had been treated with great ſlight and diſreſpect; that they earneſtly wiſhed for peace and reconciliation with France; and had been entruſted by their country with very great powers to obtain theſe ends, on honorable terms: that with regard to the propoſitions made, he could not even conſider of them before he had communicated them to his colleagues: that after he had done ſo, he ſhould hear from him. After a communication and conſultation had, it was agreed, that General Pinckney ſhould call on M. X. and requeſt him to make his propoſitions to us all; and for fear of miſtakes or miſapprehenſion, that he ſhould be requeſted to reduce the heads into writing. Accordingly, on the morning of October the nineteenth, General Pinckney called on M. X. who conſented to ſee his colleagues in the evening, and to reduce his propoſitions to writing. He ſaid his communication was not immediately with M. Talleyrand, but through another gentleman, in whom M. Talleyrand had great confidence: this proved afterwards to be M. Y.

At ſix in the evening M. X. came and left with us the firſt ſet of propoſitions; which, tranſlated from the French, are as follows; "A perſon who poſſeſſes the confidence of the Directory, on what relates to the affairs of America, convinced of the mutual advantages which would reſult from the re-eſtabliſhment of the good underſtanding between the two nations, propoſes to employ all of his influence to obtain this object. He will aſſiſt the commiſſioners of the United States in all the demands which they may have to make from the government of France, inaſmuch as they may not be contradictory to thoſe which he propoſes himſelf to make, and of which the principal will be communicated confidentially. It is deſired that in the official communications there ſhould be given a ſoftening turn to a part of the Preſident's ſpeech to Congreſs, which has cauſed much irritation. It is feared that in not ſatisfying certain individuals in this reſpect, they may give way to all their reſentment. The nomination of commiſſioners will be conſented to on the ſame footing as they have been named in the treaty with England, to decide on the reclamations which individuals of America may make on the government of France, or on French individuals. The payment which, agreeably to the deciſions of the commiſſioners, ſhall fall to the ſhare of the French government, are to be advanced by the American government itſelf. It is deſired that the funds which by this means ſhall enter again into the American trade, ſhould be employed in new ſupplies for the French colonies. Engagements of this nature on the part of individuals reclaiming will always haſten, in all probability, the deciſions of the French commiſſioners: and perhaps it may be deſired that this clauſe ſhould make a part of the inſtructions which the government of the United States ſhould give to the commiſſioners they may chooſe. The French government deſires, beſides, to obtain a loan from the United States; but ſo that that ſhould not give any jealouſy to the Engliſh government, nor hurt the neutrality of the United States. This loan ſhall be maſked by ſtipulating, that the government of the United States conſents to make

the advances for the payment of the debts contracted by the agents of the French government with the citizens of the United States; and which are already acknowledged, and the payment ordered by the Directory, but without having been yet effectuated. There ſhould be delivered a note to the amount of theſe debts. Probably this note may be accompanied by oſtenſible pieces, which will guarantee to the agents the reſponſibility of the United States in caſe any umbrage ſhould cauſe an enquiry. There ſhall alſo be firſt taken from this loan certain ſums for the purpoſe of making the cuſtomary diſtributions in diplomatic affairs." The perſon of note mentioned in the minutes, who had the confidence of the Directory, he ſaid, before us all, was M. Talleyrand. The amount of the loan he could not aſcertain preciſely, but underſtood it would be according to our ability to pay. The ſum which would be conſidered as proper, according to diplomatic uſage, was about twelve hundred thouſand livres. He could not ſtate to us what parts of the Preſident's ſpeech were excepted to, but ſaid he would enquire and inform us. He agreed to breakfaſt with Mr. Gerry the morning of the 21ſt, in order to make ſuch explanations as we had then requeſted, or ſhould think proper to requeſt: but on the morning of the 20th M. X. called and ſaid, that M. Y. the confidential friend of M. Talleyrand, inſtead of communicating with us through M. X. would ſee us himſelf and make the neceſſary explanations. We appointed to meet him the evening of the twentieth at ſeven o'clock, in General Marſhall's room. At ſeven M. Y. and M. X. entered; and the firſt mentioned gentleman, being introduced to us as the confidential friend of M. Talleyrand, immediately ſtated to us the favourable impreſſions of that gentleman towards our country, impreſſions which were made by the kindneſs and civilities he had perſonally received in America: that impreſſed by his ſolicitude to repay theſe kindneſſes, he was willing to aid us in the preſent negociation by his good offices with the Directory, who were, he ſaid, extremely irritated againſt the government of the United States, on account of ſome parts of the Preſident's ſpeech, and who had neither acknowledged nor received us, and conſequently have not authorized M. Talleyrand to have any communications with us. The miniſter therefore could not ſee us himſelf, but had authorized his friend M. Y. to communicate to us certain propoſitions, and to receive our anſwers to them; and to promiſe on his part, that if we would engage to conſider them as the baſis of the propoſed negociation, he would intercede with the Directory to acknowledge us, and to give us a public audience. M. Y. ſtated to us explicitly and repeatedly, that he was cloathed with no authority; that he was not a diplomatic character; that he was not . . . he was only the friend of M. Talleyrand and truſted by him; that with regard to himſelf he had . . . . . and that he earneſtly wiſhed well to the United States. He then took out of his pocket a French tranſlation of the Preſident's ſpeech, the parts of which objected to by the Directory were marked, agreeably to our requeſt to M. X. and are contained in the exhibit A. Then he made us the ſecond ſet of propoſitions, which were dictated by him and written by M. X. in our preſence, and delivered to us, and which, tranſlated from the French, are as follows. "There is demanded a formal diſavowal in writing, declaring that the ſpeech of the citizen Preſident Barras did not contain any thing offenſive to the government of the United States, nor any thing which de-

ſerved the epithets contained in the whole paragraph: Secondly, reparation is demanded for the article by which it ſhall be declared, that the decree of the Directory there mentioned did not contain any thing contrary to the treaty of 1778, and had none of thoſe fatal conſequences, that the paragraph reproaches to it: Thirdly, it is demanded, that there ſhould be an acknowledgment in writing of the depredations exerciſed on our trade by the Engliſh and French privateers: Fourthly, the government of France, faithful to the profeſſion of public faith which it has made not to intermeddle in the internal affairs of foreign governments with which it is at peace, would look upon this paragraph as an attack upon its loyalty, if this was intended by the Preſident. It demands, in conſequence, a formal declaration, that it is not the government of France, nor its agents, that this paragraph meant to deſignate: In conſideration of theſe reparations, the French Republic is diſpoſed to renew with the United States of America, a treaty which ſhall place them reciprocally in the ſame ſtate that they were in 1778: By this new treaty France ſhall be placed with reſpect to the United States, exactly on the ſame footing as they ſtand with England, in virtue of the laſt treaty which has been concluded between them. A ſecret article of this new treaty would be a loan to be made by the United States to the French Republic: and once agreed upon the amount of the loan, it would be endeavored to conſult the convenience of the United States with reſpect to the beſt method of preventing its publicity." On reading the ſpeech M. Y. dilated very much upon the keenneſs of the reſentment it had produced, and expatiated largely on the ſatisfacton he ſaid was indiſpenſably neceſſary as a preliminary to negociation. "But, ſaid he, gentlemen, I will not diſguiſe from you, that this ſatisfaction being made, the eſſential part of the treaty remains to be adjuſted: il faut de l'argent—il faut beaucoup d'argent:" *you muſt pay money, you muſt pay a great deal of money.* He ſpoke much of the force, the honor and the jealous republican pride of France; and repreſented to us ſtrongly the advantages which we ſhould derive from the neutrality thus to be purchaſed. He ſaid, that the receipt of the money might be ſo diſguiſed as to prevent its being conſidered as a breach of neutrality by England; and thus ſave us from being embroiled with that power. Concerning the twelve hundred thouſand livres little was ſaid; that being completely underſtood, on all ſides, to be required for the officers of government, and therefore needing no further explanation. Theſe propoſitions, he ſaid, being conſidered as the admitted baſis of the propoſed treaty, M. Talleyrand truſted that, by his influence with the Directory, he could prevail on the government to receive us. We aſked whether we were to conſider it as certain, that without a previous ſtipulation to the effect required, we were not to be received. He anſwered, that M. Talleyrand himſelf was not authorized to ſpeak to us the will of the Directory, and conſequently could not authorize him. The converſation continued until half after nine, when they left us; having engaged to breakfaſt with Mr. Gerry the next morning.

October the 21ſt, M. X. came before nine o'clock: M. Y. did not come until ten—he had paſſed the morning with M. Talleyrand. After breakfaſt the ſubject was immediately reſumed. He repreſented to us, that we were not yet acknowledged or received; that the directory were ſo exaſperated againſt the United States, as to have come to a determina-

tion to demand from us, previous to our reception, thoſe diſavowels, reparations and explanations, which were ſtated at large laſt evening. He ſaid that M. Talleyrand and himſelf were extremely ſenſible of the pain we muſt feel in complying with this demand; but that the Directory would not diſpenſe with it: that therefore we muſt conſider it as the indiſpenſible preliminary to obtain our reception; unleſs we could find the means to change their determination in this particular: that if we ſatisfied the Directory in theſe particulars, a letter would be written to us to demand the extent of our powers, and to know whether we were authorized to place them preciſely on the ſame footing with England; whether, he ſaid, our full powers were really and ſubſtantially full powers; or, like thoſe of Lord Malmeſbury, only illuſory powers: that, if to this demand our anſwer ſhould be affirmative, then France would conſent that commiſſioners ſhould be appointed to aſcertain the claims of the United States, in like manner as under our treaty with England: but from their juriſdiction muſt be withdrawn thoſe which were condemned for want of a role d'équipage; that being a point on which Merlin while miniſter of juſtice, had written a treatiſe, and on which the Directory were decided. There would however be no objection to our complaining of theſe captures, in the courſe of the negociation; and if we could convince Merlin by our reaſoning, the miniſter would himſelf be ſatisfied with our ſo doing. We required an explanation of that part of the converſation, in which M. Y. had hinted at our finding means to avert the demand concerning the Preſident's ſpeech. He anſwered, that he was not authorized to ſtate thoſe means, but that we muſt ſearch for them and propoſe them ourſelves. If however we aſked his opinion as a private individual, and would receive it as coming from him, he would ſuggeſt to us the means which in his opinion would ſucceed. On being aſked to ſuggeſt the means, he anſwered, money; that the Directory were jealous of its own honor and of the honor of the nation; that it inſiſted on receiving from us the ſame reſpect with which we had treated the King; that this honor muſt be maintained in the manner before required, unleſs we ſubſtituted in the place of thoſe reparations ſomething perhaps more valuable, that was money. He ſaid further, that if we deſired him to point out the ſum which he believed would be ſatisfactory, he would do ſo. We requeſted him to proceed; and he ſaid, that there were thirty-two millions of florins of Dutch inſcriptions, worth ten ſhillings in the pound, which might be aſſigned to us at twenty ſhillings in the pound: and he proceeded to ſtate to us the certainty, that after a peace, the Dutch government would repay us the money; ſo that we ſhould ultimately loſe nothing; and the only operation of the meaſure would be, an advance from us to France of thirty-two millions, on the credit of the government of Holland. We aſked him whether the fifty thouſand pounds ſterling, as a douceur to the Directory, muſt be in addition to this ſum. He anſwered in the affirmative. We told him, that on the ſubject of the treaty, we had no heſitation in ſaying that our powers were ample: that on the other points propoſed to us we would retire into another room, and return in a few minutes with our anſwer.

We committed immediately to writing the anſwer we propoſed, in the following words: "Our powers reſpecting a treaty are ample: but the propoſition of a loan in the form of Dutch inſcriptions, or in any

other form, is not within the limits of our inſtructions; upon this point therefore the government muſt be conſulted: one of the American miniſters will, for the purpoſe, forthwith embark for America: provided the Directory will ſuſpend all further captures on American veſſels, and will ſuſpend proceedings on thoſe already captured, as well where they have been already condemned, as where the deciſions have not yet been rendered; and that where ſales have been made, but the money not yet received by the captors, it ſhall not be paid until the preliminary queſtions, propoſed to the miniſters of the United States, be diſcuſſed and decided;" which was read as a verbal anſwer; and we told them they might copy it, if they pleaſed. M. Y. refuſed to do ſo: his diſappointment was apparent: he ſaid we treated the money part of the propoſition as if it had proceeded from the Directory; whereas in fact it did not proceed even from the miniſter, but was only a ſuggeſtion from himſelf, as a ſubſtitute to be propoſed by us, in order to avoid the painful acknowledgment that the Directory had determined to demand of us. It was told him, that we underſtood that matter perfectly: that we knew the propoſition was in form to be ours; but that it came ſubſtantially from the miniſter. We aſked what had led to our preſent converſation? And General Pinckney then repeated the firſt communication from M. X. (to the whole of which that gentleman aſſented) and we obſerved that thoſe gentlemen had brought no teſtimonials of their ſpeaking any thing from authority: but that relying on the fair characters they bore, we had believed them when they ſaid they were from the miniſter, and had converſed with them in like manner, as if we were converſing with M. Talleyrand himſelf; and that we could not conſider any ſuggeſtion M. Y. had made, as not having been previouſly approved of: but yet, if he did not chuſe to take a memorandum in writing of our anſwer, we had no wiſh that he ſhould do ſo; and further, if he choſe to give the anſwer to his propoſition the form of a propoſition from ourſelves we could only tell him, that we had no other propoſition to make, relative to any advance of money on our part: that America had ſuſtained deep and heavy loſſes by French depredations on our commerce, and that France had alledged ſo [many] complaints againſt the United States, that on thoſe ſubjects we came fully prepared, and were not a little ſurprized to find France unwilling to hear us; and making demands upon us which could never have been ſuſpected by our government, and which had the appearance of our being the aggreſſing party. M. Y. expreſſed himſelf vehemently on the reſentment of France; and complained, that inſtead of our propoſing ſome ſubſtitute for the reparations demanded of us, we were ſtipulating certain conditions to be performed by the Directory itſelf; that he could not take charge of ſuch propoſitions; and that the Directory would perſiſt in its demand of thoſe reparations which he at firſt ſtated. We anſwered, that we could not help it; it was for the Directory to determine what courſe its own honor and the intereſts of France required it to purſue: it was for us to guard the intereſts and honor of our country. M. Y. obſerved, that we had taken no notice of the firſt propoſition, which was, to know whether we were ready to make the diſavowal, reparations and explanations concerning the Preſident's ſpeech. We told him that we ſuppoſed it to be impoſſible, that either he or the miniſter could imagine, that ſuch a propoſition could require an anſwer: that we did not underſtand it as being ſeriouſly expected; but merely as introductory to the ſubjects of real conſideration.

He ſpoke of the reſpect which the directory required, and repeated, that it would exact as much as was paid to the ancient Kings. We anſwered that America had demonſtrated to the world, and eſpecially to France, a much greater reſpect for her preſent government than for her former monarchy; and that there was no evidence of this diſpoſition which ought to be required, that we were not ready to give. He ſaid that we ſhould certainly not be received; and ſeemed to ſhudder at the conſequences. We told him, that America had made every poſſible effort to remain on friendly terms with France; that ſhe was ſtill making them: that if France would not hear us; but would make war on the United States; nothing remained for us, but to regret the unavoidable neceſſity of defending ourſelves.

The ſubject of our powers was again mentioned; and we told him, that America was ſolicitous to have no more miſunderſtandings with any Republic, but eſpecially with France; that ſhe wiſhed a permanent treaty, and was ſenſible, that no treaty could be permanent, which did not comport with the intereſts of the parties; and therefore that he might be aſſured, that our powers were ſuch as authorized us to place France on equal ground with England, in any reſpects in which an inequality might be ſuppoſed to exiſt at preſent between them, to the diſadvantage of France. The ſubject of the rôle d'équipage was alſo mentioned; and we aſked what aſſurance we could have, if France inſiſted on the right of adding to the ſtipulations of our treaty, or of altering them by municipal regulations, that any future treaty we could make ſhould be obſerved. M. Y. ſaid that he did not aſſert the principle of changing treaties by municipal regulations; but that the Directory conſidered its regulation concerning the rôle d'équipage as comporting with the treaty. We obſerved to him, that none of our veſſels had what the French termed a rôle d'équipage, and that if we were to ſurrender all the property which had been taken from our citizens in caſes where their veſſels were not furniſhed with ſuch a rôle, the government would be reſponſible to its citizens for the property ſo ſurrendered; ſince it would be impoſſible to undertake to aſſert, that there was any plauſibility in the allegation, that our treaty required a rôle d'équipage.

The ſubject of diſavowals, &c. concerning the Preſident's ſpeech was again mentioned; and it was obſerved, that the Conſtitution of the United States authorized and required our Preſident to communicate his ideas on the affairs of the nation; that, in obedience to the Conſtitution, he had done ſo; that we had not power to confirm or invalidate any part of the Preſident's ſpeech; that ſuch an attempt could produce no other effect than to make us ridiculous to the government and to the citizens at large of the United States; and to produce, on the part of the Preſident, an immediate diſavowal and recal of us as his agents: that independent of this, all America was acquainted with the facts ſtated by the Preſident; and our diſavowing them would not change the public ſentiment concerning them.

We parted with mutual profeſſions of perſonal reſpect, and with full indications on the part of M. Y. of his expectation, that we ſhould immediately receive the threatened letter.

The nature of the above communication will evince the neceſſity of ſecrecy; and we have promiſed Meſſrs. X. and Y. that their names ſhall in no event be made public.

We have the honor to be, with great reſpect and eſteem, your moſt obedient humble ſervants.

CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

P. S. October 27th, 1797. The Definitive Articles of Peace are ſigned between the French Republic and the Emperor: the particulars you will find in the public prints. The Portugueſe Miniſter is ordered to quit France, as the treaty with Portugal has not been yet ratified by the Queen. The Treaty itſelf is declared by the Directory to be void. Since our arrival at Paris the tribunal of caſſation has rejected captain Scott's petition complaining of the condemnation of his veſſel by the civil tribunal for the want of a rôle d'équipage. Mr. ——— in behalf of the owners of the American veſſels, who have appealed in the laſt reſort to the tribunal of caſſation, informs, that notwithſtanding all the arguments ——— made uſe of ——— to put off the hearing of the Roſanna, as a diplomatic caſe, 'till the iſſue of our negociations is known, that caſe is ſet down for hearing and will come on the 29th or 30th inſt. The ſame ——— alſo ſays, that it is obvious, that the tribunal have received inſtructions from the officers of the government to haſten their deciſions, and that it was hardly worth while to ——— for all our petitions in caſſation would be rejected. Our advocates ——— decline giving their ſentiments on this ſubject ——— under an apprehenſion of committing themſelves.

Col. Pickering, Sec'y of the United States.

Paragraphs of the PRESIDENT'S *Speech, referred to in Letter No.* 1. *under title of exhibit* A.

I. With this conduct of the French government it will be proper to take into view the public audience, given to the late miniſter of the United States, on his taking leave of the Executive Directory. The ſpeech of the Preſident diſcloſes ſentiments more alarming than the refuſal of a Miniſter, becauſe more dangerous to our independence and union, and at the ſame time ſtudiouſly marked with indignities towards the government of the United States. It evinces a diſpoſition to ſeparate the people of the United States from the government; to perſuade them, that they have different affections, principles and intereſts from thoſe of their fellow-citizens, whom they themſelves have choſen to manage their common concerns; and thus to produce diviſions fatal to our peace. Such attempts ought to be repelled with a deciſion, which ſhall convince France and the world, that we are not a degraded people, humiliated under a colonial ſpirit of fear, and ſenſe of inferiority, fitted to be the miſerable inſtruments of foreign influence, and regardleſs of national honor, character and intereſt.

II. The diplomatic intercourſe between the United States and France being at preſent ſuſpended; the government has no means of obtaining official information from that country: nevertheleſs there is reaſon to believe that the Executive Directory paſſed a decree, on the 2d of March laſt, contravening in part the treaty of amity and commerce of 1778, injurious to our lawful commerce and endangering the lives of our citizens. A copy of this decree will be laid before you.

III. While we are endeavoring to adjuſt all our differences with France, by amicable negociation, the progreſs of the war in Europe, the depredations on our commerce, the perſonal injuries to our citizens, and the general complexion of affairs render it my indiſpenſible duty to recommend to your conſideration effectual meaſures of defence.

IV. It is impoſſible to conceal from ourſelves, or the world, what has been before obſerved, that endeavours have been employed to foſter and eſtabliſh a diviſion between the government and people of the United States. To inveſtigate the cauſes which have encouraged this attempt is not neceſſary. But to repel, by decided and united councils, inſinuations ſo derogatory to the honor, and aggreſſions ſo dangerous to the conſtitution, union and even independence of the nation, is an indiſpenſible duty.

ANSWER OF M. BARRAS,

Preſident of the Executive Directory, to the Speech of Mr. MONROE *on taking leave, to which the Speech of the Preſident of the United States refers.*

M. Le Miniſtre Plénipotentiaire des Etats Unis d'Amérique.

En préſentant aujourd hui au Directoire Exécutif vos lettres de rappel, vous donnez à l'Europe une ſpectacle bien étrange.

La France, riche de ſa liberté, entourée du cortège de ſes victoires, fort de l'eſtime de ſes alliés, ne ſ'abaiſſera pas à calculer les ſuites de la condeſcendance du gouvernement Américain pour leſs ſuggeſtions de ſes anciens tyrans... La République Francaiſe eſpère, au ſurplus, que les ſucceſſeurs de Colombus, Ramhiph et Penn, toujours fiers de leur liberté, n'oublieront jamais qu'ils la doivent à la France.....Ils péſeront dans leur ſageſſe la magnanime bienveillance du peuple Francaiſe avec les aſtucieuſes careſſes de quelques perfides qui méditent de le raméner à ſon antique eſclavage. Aſſurez, M. le Miniſtre, le bon peuple Américain que, comme lui, nous adorons la liberté ; que toujours il aura notre eſtime, et qu'il trouvera, dans le peuple Français, la généroſite républicaine qui ſait accorder la paix comme elle ſait faire reſpecter ſa ſouveraineté.*

Mr. Miniſter Plenipotentiary of the United States of America.

By preſenting to-day your letters of recall to the Executive Directory, you give to Europe a very ſtrange ſpectacle.

France, rich in her liberty, ſurrounded by a train of victories, ſtrong in the eſteem of her allies, will not abaſe herſelf by calculating the conſequences of the condeſcenſion of the American Government to the ſuggeſtions of her former tyrants. Moreover, the French Republic hopes, that the ſucceſſors of Columbus, Ramhiph* and Penn, always proud of their liberty, will never forget that they owe it to France. They will weigh in their wiſdom, the magnanimous benevolence of the French people with the crafty careſſes of certain perfidious perſons who meditate bringing them back to their former ſlavery. Aſſure the good American people, Sir, that like them we adore liberty; that they will always have our eſteem, and that they will find in the French people, republican generoſity, which knows how to grant peace, as it does to cauſe its ſovereignty to be reſpected.

* *Probably intended for Raleigh.*

(No. 2.)

Paris, November 8th, 1797.

DEAR SIR,

WE now encloſe you, in thirty-ſix quarto pages of cypher, and in eight pages of cyphered exhibits, the ſequel to the details commenced in No. 1, dated the 22d of laſt month; and have the honor to be,

Your moſt obedient humble ſervants,

CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

Colonel Pickering.

October 27th, 1797.

About twelve we received another viſit from M. X. He immediately mentioned the great event announced in the papers, and then ſaid, that ſome propoſals from us had been expected on the ſubject on which we had before converſed; that the Directory were becoming impatient, and would take a decided courſe with regard to America, if we could not ſoften them. We anſwered, that on that ſubject we had already ſpoken explicitly, and had nothing farther to add. He mentioned the change in the ſtate of things which had been produced by the peace with the emperor, as warranting an expectation of a change in our ſyſtem; to which we only replied, that this event had been expected by us, and would not in any degree affect our conduct. M. X. urged, that the Directory had, ſince this peace, taken a higher and more decided tone with reſpect to us, and all other neutral nations, than had been before taken; that it had been determined, that all nations ſhould aid them, or be conſidered and treated as their enemies. We anſwered, that ſuch an effect had already been contemplated by us as probable, and had not been overlooked when we gave to this propoſition our decided anſwer; and further, that we had no powers to negociate for a loan of money; that our government had not contemplated ſuch a circumſtance in any degree whatever; that if we ſhould ſtipulate a loan, it would be a perfectly void thing, and would only deceive France, and expoſe ourſelves. M. X. again expatiated on the power and violence of France: he urged the danger of our ſituation, and preſſed the policy of ſoftening them, and of thereby obtaining time. The preſent men, he ſaid, would very probably not continue long in power; and it would be very unfortunate if thoſe who might ſucceed, with better diſpoſitions towards us, ſhould find the two nations in actual war. We anſwered, that if war ſhould be made on us by France, it would be ſo obviouſly forced on us, that on a change of men, peace might be made with as much facility as the preſent differences could be accommodated: we added, that all America

Quant à vous, M. le Miniſtre plenipotentiaire, vous avez combattu pour les vrais intérêts de votre patrie....partez avec nos regrets. Nous rendons en vous un repréſentant à l'Amérique, et nous retenons le ſouvenir du citoyen dont les qualités perſonelles honoraient ce titre.

As to you, Mr. Miniſter Plenipotentiary, you have combatted for principles, you have known the true intereſts of your country. Depart with our regret. In you we give up a repreſentative to America and retain the remembrance of the citizen whoſe perſonal qualities did honor to that title.

deprecated a war with France; but that our preſent ſituation was more ruinous to us than a declared war could be; that at preſent our commerce was plundered unprotected; but that if war was declared, we ſhould ſeek the means of protection. M. X. ſaid, he hoped we ſhould not form a connection with Britain; and we anſwered, that we hoped ſo too; that we had all been engaged in our revolution war, and felt its injuries; that it had made the deepeſt impreſſion on us; but that if France ſhould attack us, we muſt ſeek the beſt means of ſelf defence. M. X. again returned to the ſubject of money: Said he, gentlemen, you do not ſpeak to the point; it is money: it is expected that you will offer money. We ſaid that we had ſpoken to that point very explicitly; we had given an anſwer. No, ſaid he, you have not: what is your anſwer? We replied; it is no; no; not a ſix-pence. He again called our attention to the dangers which threatened our country, and aſked, if it would not be prudent, though we might not make a loan to the nation, to intereſt an influential friend in our favor. He ſaid we ought to conſider what men we had to treat with; that they diſregarded the juſtice of our claims, and the reaſoning with which we might ſupport them; that they diſregarded their own colonies; and conſidered themſelves as perfectly invulnerable with reſpect to us; that we could only acquire an intereſt among them by a judicious application of money; and it was for us to conſider, whether the ſituation of our country did not require that theſe means ſhould be reſorted to. We obſerved, that the conduct of the French government was ſuch as to leave us much reaſon to fear, that ſhould we give the money, it would effect no good purpoſe, and would not produce a juſt mode of thinking with reſpect to us. Proof of this muſt firſt be given us. He ſaid, that when we employed a lawyer, we gave him a fee, without knowing whether the cauſe could be gained or not; but it was neceſſary to have one, and we paid for his ſervices, whether thoſe ſervices were ſucceſsful or not: ſo in the preſent ſtate of things, the money muſt be advanced for the good offices the individuals were to render, whatever might be the effect of thoſe good offices. We told him there was no parallel in the caſes; that a lawyer, not being to render the judgment, could not command ſucceſs; he could only endeavour to obtain it; and conſequently, we could only pay him for his endeavours: but the Directory could decide on the iſſue of our negociation. It had only to order, that no more American veſſels ſhould be ſeized, and to direct thoſe now in cuſtody to be reſtored, and there could be no oppoſition to the order. He ſaid, that all the members of the Directory were not diſpoſed to receive our money: that Merlin, for inſtance, was paid from another quarter, and would touch no part of the douceur which was to come from us. We replied, that we had underſtood, that Merlin was paid by the owners of the privateers; and he nodded an aſſent to the fact. He proceeded to preſs this ſubject with vaſt perſeverance. He told us that we paid money to obtain peace with the Algerines, and with the Indians; and that it was doing no more to pay France for peace. To this it was anſwered, that when our government commenced a treaty with either Algiers or the Indian tribes, it was underſtood that money was to form the baſis of the treaty, and was its eſſential article; that the whole nation knew it, and was prepared to expect it as a thing of courſe; but that in treating with France, our government had ſuppoſed, that a propoſition, ſuch as he ſpoke of, would,

if made by us, give mortal offence. He aſked if our government did not know, that nothing was to be obtained here without money? We replied, that our government had not even ſuſpected ſuch a ſtate of things. He appeared ſurpriſed at it, and ſaid, there was not an American in Paris who could not have given that information. We told him, that the letters of our Miniſter had indicated a very contrary temper in the government of France; and had repreſented it as acting entirely upon principle, and as feeling a very pure and diſintereſted affection for America. He looked ſomewhat ſurpriſed; and ſaid briſkly to general Pinckney: well, ſir, you have been a long time in France and in Holland; what do you think of it? General Pinckney anſwered, that he conſidered M. X. and M. Y. as men of truth, and of conſequence he could have but one opinion on the ſubject. He ſtated, that Hamburgh, and other ſtates of Europe, were obliged to buy a peace; and that it would be equally for our intereſt to do ſo. Once more he ſpoke of the danger of a breach with France, and of her power, which nothing could reſiſt. We told him that it would be in vain for us to deny her power, or the ſolicitude we felt to avoid a conteſt with it; that no nation eſtimated her power more highly than America, or wiſhed more to be on amicable terms with her; but that one object was ſtill dearer to us, than the friendſhip of France, which was our national independence: that America had taken a neutral ſtation; ſhe had a right to take it; no nation had a right to force us out of it: that to lend a ſum of money to a belligerent power, abounding in every thing requiſite for war but money, was to relinquiſh our neutrality, and take part in the war: to lend this money, under the laſh and coercion of France, was to relinquiſh the government of ourſelves, and to ſubmit to a foreign government impoſed upon us by force: that we would make at leaſt one manly ſtruggle before we thus ſurrendered our national independence: that our caſe was different from that of one of the minor nations of Europe; they were unable to maintain their independence, and did not expect to do ſo: America was a great, and, ſo far as concerned her ſelf-defence, a powerful nation: ſhe was able to maintain her independence; and muſt deſerve to loſe it, if ſhe permitted it to be wreſted from her: that France and Britain had been at war for near fifty years of the laſt hundred, and might probably be at war for fifty years of the century to come; that America had no motives which could induce her to involve herſelf in thoſe wars; and that if ſhe now preſerved her neutrality and her independence, it was moſt probable that ſhe would not in future be afraid, as ſhe had been for four years paſt: but if ſhe now ſurrendered her rights of ſelf-government to France, or permitted them to be torn from her, ſhe could not expect to recover them, or to remain neutral in any future war. He ſaid that France had lent us money during our revolution war, and only required that we ſhould now exhibit the ſame friendſhip for her. We anſwered, that the caſes were very different; that America ſolicited a loan from France, and left her at liberty to grant or refuſe it: but that France demanded it from America, and left us no choice on the ſubject. We alſo told him there was another difference in the caſes; that the money was lent by France for great national and French objects; it was lent to maim a rival and an enemy whom ſhe hated: that the money, if lent by America, would not be for any American objects, but to enable France to extend ſtill further her conqueſts. The converſation continued for nearly

two hours; and the public and private advance of money was preſſed and repreſſed in a variety of forms. At length M. X. ſaid that he did not blame us; that our determination was certainly proper, if we could keep it: but he ſhowed decidedly his opinion to be that we could not keep it. He ſaid that he would communicate, as nearly as he could, our converſation to the Miniſter, or to M. Y. to be given by him to the Miniſter; we are not certain which. We then ſeparated. On the 22d of October, M. Z. a French Gentleman of reſpectable character, informed Mr. Gerry, that M. Talleyrand, Miniſter of foreign relations, who profeſſed to be well diſpoſed towards the United States, had expected to have ſeen the American Miniſters frequently in their private capacities; and to have conferred with them individually on the objects of their miſſion; and had authorized M. Z. to make this communication to Mr. Gerry. The latter ſent for his colleagues; and a conference was held with M. Z. on the ſubject; in which General Pinckney and General Marſhall expreſſed their opinions, that not being acquainted with M. Talleyrand, they could not, with propriety, call on him; but, that according to the cuſtom of France, he might expect this of Mr. Gerry from a previous acquaintance in America. This Mr. Gerry reluctantly complied with on the 23d. and with M. Z. called on M. Talleyrand, who, not being then at his office, appointed the 28th for the interview. After the firſt introduction, M. Talleyrand began the conference. He ſaid, that the Directory had paſſed an arrête, which he offered for peruſal, in which they had demanded of the envoys an explanation of ſome parts, and a reparation for others, of the Preſident's ſpeech to Congreſs, of the 16th of May laſt: he was ſenſible, he ſaid, that difficulties would exiſt on the part of the envoys relative to this demand; but that by their offering money, he thought he could prevent the effect of the arrête. M. Z. at the requeſt of Mr. Gerry, having ſtated that the envoys have no ſuch powers; M. Talleyrand replied, they can in ſuch caſe take a power on themſelves; and propoſed that they ſhould make a loan. Mr. Gerry then addreſſed M. Talleyrand diſtinctly in Engliſh, which he ſaid he underſtood, and ſtated, that the uneaſineſs of the Directory reſulting from the Preſident's ſpeech, was a ſubject unconnected with the objects of the miſſion: that M. Barras, in his ſpeech to Mr. Munroe, on his recall, had expreſſed himſelf in a manner diſpleaſing to the government and citizens of the United States; that the Preſident, as the envoys conceived, had made ſuch obſervations on M. Barras' ſpeech as were neceſſary to vindicate the honor of the United States; that this was not conſidered by our government as a ſubject of diſpute between the two nations; that having no inſtructions reſpecting it, we could not make any explanations or reparations relating to it; and that M. Talleyrand himſelf was ſufficiently acquainted with the conſtitution of the United States to be convinced of the truth of theſe obſervations. Mr. Gerry further ſtated, that the powers of the envoys, as they conceived, were adequate to the diſcuſſion and adjuſtment of all points of real difference between the two nations; that they could alter and amend the treaty; or, if neceſſary, form a new one; that the United States were anxiouſly deſirous of removing all cauſes of complaint between themſelves and France, and of renewing their former friendſhip and intercourſe, on terms which ſhould be mutually honorable and beneficial to the two nations; but not on any other terms; that as to a loan, we had no powers whatever to make one; that

if we were to attempt it, we ſhould deceive himſelf and the Directory likewiſe, which, as men of honor, we could not do; but that we could ſend one of our number for inſtructions on this propoſition, if deemed expedient, provided that the other objects of the negociation could be diſcuſſed and adjuſted; that as he had expreſſed a deſire to confer with the envoys individually, it was the wiſh of Mr. Gerry that ſuch a conference ſhould take place, and their opinions thus be aſcertained, which he conceived correſponded with his own in the particulars mentioned. M. Talleyrand, in anſwer, ſaid, he ſhould be glad to confer with the other envoys individually, but that this matter about the money muſt be ſettled directly, without ſending to America; that he would not communicate the arrête for a week; and that if we could adjuſt the difficulty reſpecting the ſpeech, an application would nevertheleſs go to the United States for a loan. A courier arriving at this moment from Italy, and M. Talleyrand appearing impatient to read the letters, Mr. Gerry took leave of him immediately. He followed to the door, and deſired M. Z. to repeat to Mr. Gerry, what he, M. Talleyrand, had ſaid to him. Mr. Gerry then returned to his quarters with M. Z. took down the particulars of this interview, as before ſtated, ſent for Generals Pinckney and Marſhall, and read it to them in the preſence of M. Z. who confirmed it. Generals Pinckney and Marſhall then deſired M. Z. to inform M. Talleyrand that they had nothing to add to this conference, and did not wiſh that the arrête might be delayed on their account.

October 29th.

M. X. again called on us. He ſaid, M. Talleyrand was extremely anxious to be of ſervice to us, and had requeſted that one more effort ſhould be made to induce us to enable him to be ſo. A great deal of the ſame converſation which had paſſed at our former interviews was repeated. The power and the haughtineſs of France was again diſplayed to us. We were told that the deſtruction of England was inevitable; and that the wealth and arts of that nation would naturally paſs over to America, if that event ſhould find us in peace. To this obſervation we replied, that France would probably forbid America to receive them, in like manner as ſhe had forbid Switzerland to permit the reſidence in its country of a Britiſh miniſter. We told him alſo, that we were ſenſible of the value of peace, and therefore ſought, it unremittingly, but that it was real peace we ſought for, and real peace only which could be deſirable.

The ſum of his propoſition was, that if we would pay, by way of fees, (that was his expreſſion) the ſum of money demanded for private uſe, the Directory would not receive us; but would permit us to remain in Paris as we now were; and we ſhould be received by M. Talleyrand, until one of us could go to America and conſult our government on the ſubject of the loan. Theſe were the circumſtances, he ſaid, under which the miniſter of Portugal had treated. We aſked him if, in the mean time, the Directory would order the American property not yet paſſed into the hands of the privateerſmen, to be reſtored? He ſaid explicitly, that they would not. We aſked him, whether they would ſuſpend further depredations on our commerce? He ſaid they would not: but M. Talleyrand obſerved, that on this ſubject we could not ſuſtain much additional injury, becauſe the winter ſeaſon was approaching, when few additional captures could be made. We told him that France had taken violently from America more than fifteen millions of dollars, and treated us in every

reſpect as enemies, in return for the friendſhip we had manifeſted for her; that we had come to endeavour to reſtore harmony to the two nations, and to obtain compenſation for the injuries our countrymen had ſuſtained; and that in lieu of this compenſation, we were told, that if we would pay twelve hundred thouſand livres, we might be permitted to remain in Paris; which would only give us the benefit of ſeeing the plays and operas of Paris for the winter, that we might have time to aſk from our country to exhauſt her reſources for France, whoſe depredations would be continued. He again ſtated, that by this procedure we ſhould ſuſpend a war; and that perhaps in five or ſix months power might change hands.

We told him that what we wiſhed to ſee in France was a temper ſincerely friendly to the United States, and really diſpoſed to do us juſtice; that if we could perceive this, we might not ſo much regard a little money, ſuch as he ſtated to be uſual, although we ſhould hazard ourſelves by giving it; but that we ſaw only evidences of the moſt extreme hoſtility toward us: war was made upon us ſo far as France could make it in the preſent ſtate of things; and it was not even propoſed, that on receiving our money this war ſhould ceaſe; we had no reaſon to believe that a poſſible benefit could reſult from it; and we deſired him to ſay that we would not give a ſhilling, unleſs American property unjuſtly captured was previouſly reſtored, and further hoſtilities ſuſpended; and that unleſs this was done, we did not conceive that we could even conſult our government concerning a loan; that if the Directory would receive us and commence negociations, and any thing occurred which rendered a conſultation of the government neceſſary, one of us would return to America for that purpoſe. He ſaid that without this money we ſhould be obliged to quit Paris; and that we ought to conſider the conſequences: the property of the Americans would be confiſcated, and their veſſels in port embargoed. We told him that unleſs there was a hope of a real reconciliation, theſe evils could not be prevented by us; and the little delay we might obtain would only increaſe them; that our miſſion had induced many of our countrymen to truſt their veſſels into the ports of France, and that if we remained in Paris, that very circumſtance would increaſe the number; and conſequently the injury which our countrymen would ſuſtain, if France could permit herſelf ſo to violate her own engagements and the laws of nations. He expreſſed a wiſh, that M. Y. ſhould ſee us once more. We told him that a viſit from M. Y. as a private gentleman, would always be agreeable to us; but if he came only with the expectation that we ſhould ſtipulate advances of money, without previouſly eſtabliſhing a ſolid and permanent reconciliation, he might ſave himſelf the trouble of the application, becauſe it was a ſubject we had conſidered maturely, and on which we were immoveable. He parted with us, ſaying, if that was the caſe, it would not be worth while for M. Y. to come. In the evening, while Gen. Pinckney and Gen. Marſhall were abſent, M. Y. and M. X. called, and were invited by Mr. Gerry to breakfaſt with us the next morning.

October 30th.

Immediately after breakfaſt the ſubject was reſumed. M. Y. ſpoke without interruption for near an hour. He ſaid that he was deſirous of making a laſt effort to ſerve us, by propoſing ſomething which might accommodate the differences between the two nations; that what he was

now about to mention, had not by any means, the approbation of the Directory; nor could M. Talleyrand undertake, further than to make from us the propoſition to the Directory, and uſe his influence for its ſucceſs: that laſt week M. Talleyrand could not have ventured to have offered ſuch propoſitions; but that his ſituation had been very materially changed by the peace with the emperor: by that peace he had acquired in an high degree, the confidence of the Directory, and now poſſeſſed great influence with that body; that he was alſo cloſely connected with Buonaparte and the generals of the army in Italy; and was to be conſidered as firmly fixed in his poſt, at leaſt for five or ſix months: that under theſe circumſtances he could undertake to offer, in our behalf, propoſitions which before this increaſe of influence, he could not have hazarded. M. Y. then called our attention to our own ſituation, and to the force France was capable of bringing to bear upon us. He ſaid that we were the beſt judges of our capacity to reſiſt, ſo far as depended on our own reſources, and ought not to deceive ourſelves on ſo intereſting a ſubject. The fate of Venice was one which might befal the United States. But he proceeded to obſerve, it was probable we might rely on forming a league with England. If we had ſuch a reliance it would fail us. The ſituation of England was ſuch, as to compel Pitt to make peace on the terms of France. A variety of cauſes were in operation which made ſuch an effect abſolutely certain. To ſay nothing of the oppoſition in England to the miniſter and to the war, an oppoſition which the fears of the nation would increaſe; to ſay nothing of a war againſt England which was preparing in the north; an army of one hundred and fifty thouſand men, under the command of Buonaparte, ſpread upon the coaſt of France, and aided by all the vaſt reſources of his genius, would moſt probably be enabled to invade England; in which event their government would be overturned: but ſhould this invaſion not be abſolutely effected, yet the alarm it would ſpread through the nation, the enormous expenſe it muſt produce, would infallibly ruin them, if it was to be continued; and would drive them to ſave themſelves by a peace: that independent of this, France poſſeſſed means which would infallibly deſtroy their bank and their whole paper ſyſtem. He ſaid he knew very well it was generally conjectured that Buonaparte would not leave Italy, and the army which had conquered under him, and which adored him; he aſſured [us that] nothing could be more unfounded than the conjecture; that Buonaparte had for more than ten days left Italy for Raſtadt, to preſide over the congreſs which was formed for adjuſting the affairs of the empire. He ſaid that Pitt himſelf was ſo confident of the abſolute neceſſity of peace, that after the naval victory over the Dutch, he had ſignified his readineſs to treat on the ſame terms which he had offered before that action: we could not then rely on the aſſiſtance of England. What, he aſked, would be our ſituation if peace ſhould be made with England before our differences with France would be accommodated? But, he continued, if even England ſhould be able to continue the war, and America ſhould unite with her, it would not be in our power to injure France. We might indeed wound her ally; but if we did, it would be ſo much the worſe for us. After having ſtated the dangers attending us, if we ſhould engage in the war, he proceeded to the advantages we might derive from a neutral ſituation: and inſiſted at large on the wealth which would naturally flow into our country,

from the deſtruction of England. He next proceeded to detail the propoſitions which are in ſubſtance in the paper annexed, marked (A.) except that he inſiſted that we ſhould engage to uſe our influence with our government for the loan. He ſtated expreſsly, that the propoſitions were to be conſidered as made by us; that M. Talleyrand would not be reſponſible for the ſucceſs of any one of them; he would only undertake to uſe his influence with the Directory in ſupport of them. The propoſition, he ſaid, concerning a ſuſpenſion of hoſtilities on the part of France, was one which proceeded entirely from himſelf; M. Talleyrand had not been conſulted upon it; and he could not undertake to ſay that that gentleman would conſent even to lay it before the Directory. The propoſition for an advance to the government of France of as much money as was due from it to our citizens on contract, and as might be determined to be due for veſſels improperly captured and condemned, was, he ſaid, indiſpenſible: unleſs we made that it was unneceſſary to make any other; for the others would not be received. He expatiated on the vaſt advantages we ſhould derive from delay; it was, he ſaid, abſolutely to gain our cauſe. He returned to the danger of our ſituation and the policy of making with France any accommodation which France would aſſent to. Perhaps, ſaid he, you believe that in returning and expoſing to your countrymen the unreaſonableneſs of the demands of this government, you will unite them in their reſiſtance to thoſe demands: you are miſtaken: you ought to know that the diplomatic ſkill of France and the means ſhe poſſeſſes in your country, are ſufficient to enable her, with the French party in America, to throw the blame which will attend the rupture of the negociations on the Federaliſts, as you term yourſelves, but on the Britiſh party, as France terms you; and you may aſſure yourſelves this will be done. He concluded with declarations of being perfectly diſintereſted; and declared that his only motives for ſpeaking thus freely were his friendſhip for M. Talleyrand, and his wiſh to promote the intereſts and peace of the United States. We told him that the freedom with which he had ſpoken, and which was agreeable to us, would induce us to ſpeak freely alſo; and for once to accompany our view of the preſent ſtate of things with a retroſpect of the paſt: that America was the only nation upon earth which felt and had exhibited a real friendſhip for the Republic of France: that among the empires round her, which were compelled to bend beneath her power and to obey her commands, there was not one which had voluntarily acknowledged her government, or manifeſted for it, ſpontaneouſly, any mark of regard: America alone had ſtepped forward and given the moſt unequivocal proofs of a pure and ſincere friendſhip, at a time when almoſt the whole European world, when Auſtria, Germany, Pruſſia, Ruſſia, Spain, Sardinia, Holland, and Britain, were leagued againſt France: when her ſituation was in truth hazardous, and it was dangerous to hold even friendly intercourſe with her, America alone ſtood forward, and openly and boldly avowed her enthuſiaſm in favour of the Republic, and her deep and ſincere intereſt in its fate. From that time to the preſent, the government and people of the United States have uniformly manifeſted a ſincere and ardent friendſhip for France, and have, as they conceive, in no ſingle inſtance given to this Republic juſt cauſe of umbrage: if they have done ſo, they wiſh it to be pointed out to them. After the determination of France to break off all regular intercourſe with them,

they have ſent three Envoys Extraordinary to endeavour to make ſuch explanations as might produce reconciliation: theſe envoys are prepared to inveſtigate, and wiſh to inveſtigate any meaſures which may have given offence; and are perſuaded that they can entirely juſtify the conduct of their government. To this diſtant, unoffending, friendly Republic, what is the conduct and the language of France? Wherever our property can be found ſhe ſeizes and takes it from us; unprovoked, ſhe determines to treat us as enemies, and our making no reſiſtance produces no diminution of hoſtility againſt us; ſhe abuſes and inſults our government, endeavours to weaken it in the eſtimation of the people, recalls her own miniſter, refuſes to receive ours, and when extraordinary means are taken to make ſuch explanations as may do away miſunderſtandings, and ſuch alterations in the exiſting relations of the two countries as may be mutually ſatisfactory and may tend to produce harmony, the Envoys who bear theſe powers are not received; they are not permitted to utter the amicable wiſhes of their country; but, in the haughty ſtyle of a maſter, they are told that unleſs they will pay a ſum to which their reſources ſcarcely extend, that they may expect the vengeance of France, and like Venice be eraſed from the liſt of nations; that France will annihilate the only free Republic upon earth, and the only nation in the univerſe which has voluntarily manifeſted for her a cordial and real friendſhip! what impreſſion muſt this make on the mind of America, if without provocation France was determined to make war upon us, unleſs we purchaſed peace? We could not eaſily believe that even our money would ſave us: our independence would never ceaſe to give offence, and would always furniſh a pretext for freſh demands. On the advantages of neutrality it was unneceſſary to ſay any thing: all the efforts of our government were exerted to maintain it; and we would never willingly part with it. With reſpect to a political connection with Britain, we told him that America had never contemplated it. Whether the danger he repreſented that government to be in was or was not real we ſhould not undertake to decide: Britain we believed had much reaſon to wiſh for peace; and France had much reaſon to wiſh for peace alſo: if peace already exiſted it would not change the courſe America would purſue. M. Y. manifeſted the moſt exceſſive impatience: he interrupted us and ſaid, This eloquent diſſertation might be true: America might have manifeſted and he believed had manifeſted great friendſhip for France, and had juſt complaints againſt her; but he did not come to liſten to thoſe complaints. The Miniſter would, on our requeſt, make for us certain propoſitions to the Directory; he had ſtated them to us; and all the anſwer he wiſhed was, yes or no; did we or did we not ſolicit the Miniſter to make the propoſitions for us? We told him that without going further into the diſcuſſion, we choſe to remark one or two things: they were, that the exiſting treaty gave to France certain advantages which were very eſſential; that eſpecially the American coaſt afforded a protection near two thouſand miles in extent to the prizes made by France on her enemies, and refuſed that protection to the prizes taken from her; that ſhe might be aſſured, that in caſe of war theſe advantages would be loſt for ever. We alſo told him we were convinced that France miſcalculated on the parties in America: that the extreme injuſtice offered to our country would unite every man againſt her. M. X. informed

us that M. Talleyrand would not conſent even to lay this propoſition before the Directory without previouſly receiving the fifty thouſand pounds, or the greater part of it. M. Y. left in writing his propoſitions, and we returned the anſwer annexed and marked (B.)

November 1ſt.

It was at length agreed that we would hold no more indirect intercourſe with the government.

November 3d.

M. X. called on us, and told General Pinckney and General Marſhall (Mr. Gerry not being within) that M. Y. wiſhed once more to ſee us. We anſwered, that we ſhould at any time be glad to ſee M. Y. as a private gentleman: but that if his object was only to repeat his propoſitions for money, it was perfectly unneceſſary to do ſo; becauſe on that ſubject it was impoſſible for us to change the anſwer we had already given. We told him further, that we conſidered it as degrading our country to carry on further ſuch an indirect intercourſe as we had for ſome time ſubmitted to, and had determined to receive no propoſitions, unleſs the perſons who bore them had acknowledged authority to treat with us. He ſaid that perhaps M. Y. might have written powers from the miniſter; and we replied, that if he had we ſhould receive his communications with pleaſure. He ſpoke of a probable peace with England, and having requeſted us to be at home in the afternoon, left us.

About three o'clock he came, and after ſome converſation, in which we repeated in ſubſtance what is ſtated above, he ſhewed us a paper, which he ſaid was a copy of a letter prepared for us, by M. Talleyrand, requeſting an explanation of part of the Preſident's ſpeech, and which he ſaid would be ſent, unleſs we came into the propoſitions which had been made us. We wiſhed to take a copy of it, which he declined permitting, ſaying, he was forbidden to allow it. We ſpoke of the letter coming to us as a meaſure we had no expectation of preventing; and he ſaid he could not underſtand that we wiſhed it delayed. To which we anſwered, that the delay of a few days could not be deſired, unleſs a hope exiſted that the Directory might become more friendly to our country. He ſaid that intelligence had been received from the United States, that if Colonel Burr and Mr. Madiſon had conſtituted the miſſion, the differences between the two nations would have been accommodated before this time. He added, as a fact he was not inſtructed to communicate, that M. Talleyrand was preparing a memorial to be ſent out to the United States, complaining of us as being unfriendly to an accommodation with France. We replied to his intelligence from the United States, that the miniſter's correſpondents in America took a good deal on themſelves, when they undertook to ſay how the Directory would have received Colonel Burr and Mr. Madiſon; and that with reſpect to the memorial of M. Talleyrand, it would not be eaſy for him to convince our countrymen, that the ſtatements we ſhould make were untrue: if, however, we were confident that our conduct would be condemned, M. Talleyrand might be aſſured that the fear of cenſure would not induce us to deſerve it: but that we ſhould act in a manner which our own judgments and conſciences would approve of; and we truſted we ſhould be ſupported by the great body of candid and honeſt men. In this converſation we again ſtated, that America had taken a neutral poſition; that ſhe had faithfully ſought to preſerve it; that a loan of money to one of the bellige-

rent powers was directly to take part in the war; and that to take part in the war againſt her own judgment and will, under the coercion of France, was to ſurrender our independence.

EXHIBIT (A.)

[*Encloſed in the Envoys' Letter No.* 2. *dated November* 8*th*, 1797.]

I. The American Envoys ſhall remain here for ſix months, in the ſame manner and upon the ſame footing, with regard to etiquette, as did M. D'Aranjo, the Envoy of Portugal.

II. There ſhall be named a commiſſion of five members, agreeably to a form to be eſtabliſhed, for the purpoſe of deciding upon the reclamations of the Americans, relative to the prizes made on them by the French privateers.

III. The American Envoys will engage, that their government ſhall pay the indemnifications, or the amount of the ſums already decreed to the American creditors of the French Republic, and thoſe which ſhall be adjudged to the claimants by the commiſſioners. This payment ſhall be made under the name of an advance to the French Republic, who will repay it in a time and manner to be agreed upon.

IV. One of the American Envoys ſhall return to America, to demand of his government the neceſſary powers to purchaſe, for caſh, the thirty-two millions of Dutch reſcriptions, belonging to the French Republic, in caſe the Envoys ſhould conclude a treaty which ſhall be approved by the two nations.

V. In the interval, the definitive treaty ſhall proceed for the termination of all differences exiſting between the French Republic and the United States, ſo as that the treaty may be concluded immediately on the return of the deputy.

VI. The queſtion of the rôle d'équipage ſhall remain ſuſpended until the return of the deputy, and the commiſſion ſhall not pronounce upon any reclamation where this point ſhall be in queſtion.

VII. During the ſix months granted for the going and returning of the deputy, hoſtilities againſt the Americans ſhall be ſuſpended as well as the proceſs for condemnation before the tribunals; and the money of the prizes already condemned, in the hands of the civil officers of the nation, ſhall remain there, without being delivered to the privateers-men, until the return of the deputy.

EXHIBIT (B.)

[*Received with the Envoys' Letter No.* 2. *dated* 8*th November*, 1797.]

The Envoys Extraordinary and Miniſters Plenipotentiary of the United States, cannot avoid obſerving the very unuſual ſituation in which they are placed, by the manner in which they are alone permitted to make communications on the objects of their miſſion: They are called upon to pledge their country to a very great amount, to anſwer demands which appear to them as extraordinary as they were unexpected, without being permitted to diſcuſs the reaſon, the juſtice, or the policy on which thoſe demands are founded, and not only without aſſurances that

the rights of the United States will in future be reſpected; but without a document to prove that thoſe to whom they are required to open themſelves without reſerve, and at whoſe inſtance they are called on to ſacrifice ſo much, are empowered, even by the miniſter, to hold any communication with them: Yet ſuch is the anxious and real ſolicitude of the Envoys to ſeize any occaſion which may afford a hope, however diſtant, of coming to thoſe explanations which they ſo much wiſh to make with this Republic, that they paſs over the uncommon and informal modes which have been adopted, and will only conſider the propoſitions themſelves.

I. The Miniſters of the United States will permit no perſonal conſiderations to influence their negociations with the French Republic. Although they expected that the extraordinary means adopted by their government to reconcile itſelf to that of France would have been received with ſome degree of attention, yet they are too ſolicitous to enter upon the important and intereſting duty of their miſſion to permit themſelves to be reſtrained by forms or etiquette.

II. On this article it is believed there can be no diſagreement.

III. This article, as explained, would oblige the United States to advance, not to their own citizens, but to the government of France, ſums equivalent to the depredations made by the corſairs of the Republic on the American commerce, and to the contracts made with their citizens by France; and this advance, inſtead of benefitting the citizens of the United States, would leave them preciſely what they now are, the creditors of the French Republic: the more extenſive the depredations and the more conſiderable the contracts uncomplied with, the more would the government of France receive from the United States. Independent of theſe objections, the Miniſters of the United States cannot engage to aſſume, in any form, the debts due from France to their fellow-citizens: they have no ſuch power.

IV. If the negociations be opened, and the propoſitions for a loan, or any other propoſitions, exceeding the powers of the Miniſters, be made, the government of the United States will be conſulted thereon with expedition.

V. This, or any propoſition having for its object the claims of the two nations on each other, or an accommodation of differences, will be embraced with ardour by the Miniſters of the United States.

VI. It cannot eſcape notice, that the queſtion of the rôle d'équipage may involve in it every veſſel taken from the United States: the Miniſters however conſider it, and wiſh to take it up, as a ſubject of negociation.

VII. On this article it is only to be obſerved, that the ſeaſon of the year is ſuch, as probably to render a return, within ſix months, of the Envoy, who might ſail to the United States, impracticable: proviſion ſhould be made for ſuch an event.

If the difficulties attending the propoſitions for a loan and a compenſation for paſt injuries be ſuch as to require time for their removal, the Miniſters of the United States propoſe that the diſcuſſions on the relative ſituation of the two countries, may commence in the uſual forms; that the relation to each other may be ſo regulated, as to obviate future miſunderſtandings; and that the adjuſtment of the claims of the citizens

of the United States, whoſe veſſels have been captured, may be made after a deciſion on the point firſt mentioned.

No diplomatic gratification can precede the ratification of the treaty.

(No. 3.)

Paris, November 27th, 1797.

DEAR SIR,

ON the 11th inſtant we tranſmitted the following official letter to the Miniſter of Foreign Affairs.

" CITIZEN MINISTER,

" The underſigned Envoys Extraordinary and Miniſters Plenipotentiary of the United States of America to the French Republic, had the honour of announcing to you officially on the ſixth of October, their arrival at Paris, and of preſenting to you on the eighth, a copy of their letters of credence. Your declaration at that time, that a report on American affairs was then preparing, and would in a few days be laid before the Directory, whoſe deciſion thereon ſhould, without delay, be made known, has hitherto impoſed ſilence on them. For this communication they have waited with that anxious ſolicitude which ſo intereſting an event could not fail to excite, and with that reſpect which is due to the government of France. They have not yet received it; and ſo much time has been permitted to elapſe, ſo critical is the ſituation of many of their countrymen, and ſo embarraſſing is that of the underſigned, both as it reſpects themſelves and the government they repreſent, that they can no longer diſpenſe with the duty of ſoliciting your attention to their miſſion.

" The United States, Citizen Miniſter, at an epoch which evinced their ſincerity, have given inconteſtible proofs of their ardent friendſhip, of their affection for the French Republic: theſe were the reſult, not of her unparalleled proweſs and power, but of her confidence in her juſtice and magnanimity; and in ſuch high eſtimation was the *reciprocity* of her friendſhip held by them, as to have been a primary object of national concern. The preſervation of it was dear to them, the loſs of it a ſubject of unfeigned regret, and the recovery of it, by every meaſure which ſhall conſiſt with the rights of an independent nation, engages their conſtant attention. The government of the United States, we are authorized to declare, has examined, with the moſt ſcrupulous juſtice, its conduct towards its former friend. It has been led to this by a ſincere deſire to remove, of itſelf, every juſt cauſe of complaint; conceiving that, with the moſt upright intentions, ſuch cauſe may poſſibly exiſt; and although the ſtricteſt ſearch has produced no ſelf-reproach, although the government is conſcious that it has uniformly ſought to preſerve, with fidelity, its engagements to France, yet far from wiſhing to exerciſe the privilege of judging for itſelf, on its own courſe of reaſoning and the lights in its own poſſeſſion, it invites fair and candid diſcuſſion; it ſolicits a reconſideration of the paſt; it is perſuaded its intentions, its views, and its actions muſt have been miſrepreſented and miſunderſtood; it is convinced that the eſſential intereſts of both nations will be promoted by reconciliation and peace; and it cheriſhes the hope of meeting with ſimilar diſpoſitions on the part of the Directory.

" Guided by theſe ſentiments, the Preſident of the United States has given it in charge to the underſigned to ſtate to the Executive Directory

the deep regret which he feels at the loſs or ſuſpenſion of the harmony and friendly intercourſe which ſubſiſted between the two Republics, and his ſincere wiſh to reſtore them; to diſcuſs candidly the complaints of France, and to offer frankly thoſe of the United States: and he has authorized a review of exiſting treaties, and ſuch alterations thereof as ſhall conſiſt with the mutual intereſt and ſatisfaction of the contracting parties.

"This taſk the underſigned are anxious to commence; and truly happy will they be, if their exertions can in any degree contribute to reſtore that friendſhip, that mutual interchange of good offices which it is alike their wiſh and their duty to effect between the citizens of the two republics.

"The underſigned pray you, Citizen Miniſter, to preſent this communication to the Executive Directory, and to receive the aſſurances of their moſt perfect conſideration.

(Signed)
CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
ELBRIDGE GERRY.

Paris, November 11th, in the 22d year of American Independence.

To the Miniſter of Foreign affairs
of the French Republic."

No anſwer having been given to it on the 21ſt inſtant, we requeſted Major Rutledge to wait on the miniſter, and enquire of him whether he had communicated the letter to the Directory, and whether we might expect an anſwer: He replied that he had ſubmitted our letter to them, and that they would direct him what ſteps to purſue, of which we ſhould be informed. We have not, however, hitherto received any official intimation relative to this buſineſs: we are not yet received; and the condemnation of our veſſels for want of a rôle d'équipage is unremittingly continued. Frequent and urgent attempts have been made to inveigle us again into negociation with perſons not officially authorized, of which the obtaining of money is the baſis: but we have perſiſted in declining to have any further communication relative to diplomatic buſineſs with perſons of that deſcription; and we mean to adhere to this determination. We are ſorry to inform you, that the preſent diſpoſition of the government of this country appears to be as unfriendly towards us as ever, and that we have very little proſpect of ſucceeding in our miſſion.

We have the honour to be
Your moſt obedient humble ſervants,
CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

Col. PICKERING.

(No. 4.)

Paris, December 24th, 1797.

DEAR SIR,

WE have not yet received any anſwer to our official letter to the miniſter of foreign affairs, dated the eleventh of laſt month, and mentioned in number three: but reiterated attempts have been made to engage us in negociation with perſons not officially authorized; and you will find by the exhibits marked A, B, and C, herewith ſent, ſome important information relative to the views and intentions of the French government with reſpect to ours. We are all of opinion, that if we were to remain here for ſix months longer, without we were to ſtipulate the payment of money, and a great

deal of it, in ſome ſhape or other, we ſhould not be able to effectuate the objects of our miſſion, ſhould we be even officially received: unleſs the projected attempt on England was to fail, or a total change take place in the perſons who at preſent direct the affairs of this government. In this ſituation of matters, we are determined, by the tenth of next month, ſhould they remain as they are, to tranſmit another letter to the miniſter, repreſenting, as far as may be expedient, the views of our government.

We have the honour to be,
With great reſpect and regard,
Your moſt obedient humble ſervants,
CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

Col. PICKERING,
Secretary of State.

EXHIBIT (A.)

[*Incloſed in the Envoys' Letter, No.* 4.]

On the 14th of December, M. X. called on me, in order, as he ſaid, to gain ſome information relative to ſome lands in . . . . . purchaſed by . . . . . for whom . . . . Soon afterwards General Marſhall came in, and then Mr. Gerry's carriage drove into the yard. Here is Mr. Gerry, ſaid General Marſhall. I am glad of it, ſaid M. X. for I wiſhed to meet all of you gentlemen, to inform you that M. Y. had another meſſage to you from M. Talleyrand. I immediately expreſſed my ſurpriſe at it, as M. Talleyrand, M. Y. and he, all knew our determination to have no further communication on the ſubject of our miſſion, with perſons not officially authoriſed. He replied, that determination was made ſix weeks ago; and it was preſumed that we had changed our opinion. I ſaid that I had not; and I did not believe my colleagues had. At that moment Mr. Gerry entered the room, and I privately acquainted him with the object of M. X.'s viſit. General Marſhall, Mr. Gerry, and myſelf then withdrew into another room; and immediately agreed to adhere to our former reſolution. M. X. was then called in; when I acquainted him, in a few words, with our determination: and Mr. Gerry expatiated more at large on the propriety of our acting in this manner, and on the very unprecedented way in which we had been treated, ſince our arrival.

On the twentieth of December, a lady, who is well acquainted with M. Talleyrand, expreſſed to me her concern, that we were ſtill in ſo unſettled a ſituation: but, adds ſhe, why will not you lend us money? If you would but make us a loan, all matters would be adjuſted: and ſhe added, when you were contending for your revolution, we lent you money. I mentioned the very great difference there was between the ſituation of the two countries at that period and the preſent; and the very different circumſtances under which the loan was made us, and the loan was now demanded from us. She replied, we do not make a demand; we think it more delicate that the offer ſhould come from you: but M. Talleyrand has mentioned to me (who am ſurely not in his confidence) the neceſſity of your making us a loan: and I know that he has mentioned it to two or three others; and that you have been informed of it: and I will aſſure you, that if you remain here ſix months longer, you would not advance a ſingle ſtep further in your negociations, without a loan. If that is the caſe, I replied, we may as well go away now. Why that poſſibly, ſaid ſhe, might lead to a rupture; which you had better avoid: for we know we have a very conſiderable party in America, who are ſtrongly in our intereſt.—There is no occaſion to enter into a further detail of the converſation. I have only noted this part of it as expreſſive of what I believe (as far as relates to the loan and a party in

America in their favour) to be the ſentiments of the French government with regard to us.

CHARLES COTESWORTH PINCKNEY.

December 21ſt, 1797.

EXHIBIT B.

[*Incloſed in the Envoys' Letter, No. 4.*]

Extract from General Marſhall's Journal.

December 17th, 1797. I ſtepped into Mr. Gerry's apartment, where I ſaw M. Y. He expreſſed his regret at having been diſabled to dine with us at M. de Beaumarchais, by an inveterate tooth-ache. He then aſked me whether I had ſeen M. de Beaumarchais lately? I told him, not ſince he dined with us; and that he had left us much indiſpoſed. He then obſerved, that he had not known until lately, that I was the advocate for that gentleman in his cauſe againſt the ſtate of Virginia; and that M. de Beaumarchais, in conſequence of that circumſtance, had expreſſed ſentiments of high regard for me. I replied, that M. de Beaumarchais' cauſe was of great magnitude, very uncertain iſſue,—and conſequently, that a portion of the intereſt he felt in it, would very naturally be transferred to his advocate. He immediately ſaid, (low and apart) that M. de Beaumarchais had conſented, provided his claim could be eſtabliſhed, to ſacrifice fifty thouſand pounds ſterling of it, as the private gratification which had been required of us; ſo that the gratification might be made without any actual loſs to the American government. I anſwered, that a gratification on any terms, or in any form, was a ſubject which we approached with much fear and difficulty, as we were not authorized by our government to make one; nor had it been expected that one would be neceſſary: that I could not undertake to ſay whether my colleagues would conſent to it, in any ſtate of things; but I could undertake to ſay, no one of us would conſent to it, unleſs it was preceded or accompanied by a full and entire recognition of the claims of our citizens, and a ſatisfactory arrangement on the objects of our miſſion. He ſaid, it was in the expectation of that event only that he mentioned it. We parted: and I ſtated the converſation to General Pinckney, who was diſinclined to any ſtipulation of the ſort, and conſidered it as a renewal of the old reprobated ſyſtem of indirect, unauthorized negociation.

Having been originally the counſel of M. de Beaumarchais, I had determined, and ſo I had informed General Pinckney, that I would not, by my voice, eſtabliſh any agreement in his favour; but that I would poſitively oppoſe any admiſſion of the claim of any French citizen, if not accompanied with the admiſſion of the claims of the American citizens for property captured and condemned for want of a rôle d'equipage. My reaſon for conceiving that this ought to be ſtipulated expreſsly, was a conviction, that if it was referred to commiſſioners, it would be committing abſolutely to chance, as complete a right as any individuals ever poſſeſſed. General Pinckney was againſt admitting the claim at any rate.

After my return, Mr. Gerry came into my room, and told me that M. Y. had called on him, to accompany him on a viſit to M. Talleyrand;

that he propoſed ſeeing M. Talleyrand, and returning the civility of the dinner; and endeavouring to bring about ſome intercourſe between him and us.

December 18. General Pinckney and Mr. Gerry met in my room; and Mr. Gerry detailed to us the converſations mentioned in our public letter. The propoſition relative to the claim of M. de Beaumarchais is entirely different from my underſtanding of it, in the very brief ſtatement made to me by M. Y. We reſolved that we would rigidly adhere to the rule we had adopted, to enter into no negociation with perſons not formally authorized to treat with us. We came alſo to the determination to prepare a letter to the Miniſter of Foreign Relations, ſtating the object of our miſſion, and diſcuſſing the ſubjects of difference between the two nations, in like manner as if we had been actually received; and to cloſe the letter with requeſting the government to open the negociation with us, or to grant us our paſſports.

EXHIBIT C.

[*Incloſed in the Envoys' Letter, No. 4.*]

December 13. Mr. Gerry accidentally calling on General Pinckney, found M. X. and was ſoon informed, that his object was to obtain another interview between the Miniſters and M. Y. on the affairs of their miſſion. General Marſhall happening alſo to be there, we retired into another room, and immediately agreed to adhere to our former determination, not to have any more informal communications. M. X. having been called in, General Pinckney briefly communicated our determination: and Mr. Gerry obſerved, that he was much hurt by this propoſition; that the Miniſters had already proceeded farther in this mode of communication than perhaps they could juſtify; that they had refuſed, ſix weeks ago, to renew it; and that ſome regard ought to be paid to their feelings, which had been ſufficiently mortified; that the propoſition was diſreſpectful to the Envoys, as it betrayed a belief, that they had loſt the ſenſe of their dignity, and were indeed incompetent to their office; that had there been but one Envoy Extraordinary, he ought to have had an audience in a few days; and that for three to remain between two and three months in this ſituation, was too humiliating, too debaſing, for any nation to ſubmit to it; that for his own part, had he been ſent to any other nation in Europe, with two other Envoys, he would not have conſented to have remained in ſuch a ſtate ten days; that knowing the great deſire of the government and nation of the United States to be at peace with France, he had, with his colleagues, ſubmitted to this indignity, at the riſque of the ſevere cenſure of the former.—Having alſo enquired of M. X. at what time M. Talleyrand could be ſeen, the former ſaid he would enquire of M. Y. who on the 16th, in the evening, ſent, in Mr. Gerry's abſence from his lodgings, a billet as follows: "M. Y. has the honor to preſent his reſpects to Mr. Gerry, and to inform him, that he will have the honor to wait on him to-morrow morning, at ten o'clock, to go together to the Miniſter of Foreign Relations. He is with reſpect," &c. On the morning of the 17th, M. Y. came in while Mr. Gerry was at breakfaſt, not having received an anſwer to his note: and Mr. Marſhall coming in, M. Y. took him aſide, and

conferred with him a conſiderable time; after which, the former, and the reſt of the family, left the room; and M. Y. and Mr. Gerry being together, Mr. Gerry told him, that his object in ſeeing M. Talleyrand was to return a civility, by requeſting him to fix a day for dining with Mr. G. who intended to invite his colleagues; by this interview to promote, if poſſible, a better underſtanding between the Miniſter and the American Envoys; and Mr. G. alſo propoſed to confer with the Miniſter on the diſagreeable ſituation the Envoys were in, and to ſtate to him ſome reports which appeared to be founded, reſpecting a propoſition before the Directory for ſending off all Americans in a ſhort period; but Mr. Gerry added, that he could not hear a word on the ſubject of the miſſion, or the preliminaries to a negociation, as the Envoys had determined unanimouſly againſt any informal communications on the ſubject. M. Y. in anſwer ſaid, that Mr. Marſhall had juſt heard him on a ſubject of this kind; and that we might conſider it, as he did, merely as a converſation between ourſelves. He then ſtated that two meaſures, which M. Talleyrand propoſed, being adopted, a reſtoration of friendſhip between the republics would follow immediately; the one was a gratuity of fifty thouſand pounds ſterling; the other a purchaſe of thirty-two millions of the Dutch reſcriptions: that as to the firſt, M. de Beaumarchais had recovered, in a cauſe depending in Virginia, between that ſtate and himſelf, one hundred and forty-five thouſand pounds ſterling; that there was an appeal from the judgment; that he would ſign an act to relinquiſh forty-five thouſand pounds, if the whole ſhould be finally recovered, leaving only one hundred thouſand pounds for himſelf; that the forty-five thouſand pounds might accrue to the United States, who would, in that caſe, loſe but a ſmall part of the fifty thouſand pounds; that the purchaſe of ſixteen millions of reſcriptions would amount to but one million, three hundred and thirty three thouſand [pounds,] ſix ſhillings, and eight pence ſterling, which, with an intereſt of five per cent. would be certainly paid by the government of Holland to the United States, and leave them without any loſs; that more than half the ſum may now be hired in Holland, on the credit of the reſcriptions, and an eaſy arrangement be made for payment, by ſhort inſtalments, which might be obtained alſo by a loan; that it was worthy the attention of the Envoys to conſider, whether by ſo ſmall a ſacrifice they would eſtabliſh a peace with France, or whether they would riſk the conſequences; that if nothing could be done by the Envoys, arrangement would be made forthwith to ravage the coaſts of the United States by frigates from St. Domingo; that ſmall ſtates which had offended France were ſuffering by it; that Hamburgh, and other cities in that quarter, would, within a month or two, have their government changed; that Switzerland would undergo the ſame operation; and that Portugal would probably be in a worſe predicament; that the expedition againſt England would be certainly purſued; and that the preſent period was the moſt favourable, if we wiſhed to adopt any meaſure for a pacification.—Mr. Gerry, in anſwer, ſaid, that if the French were diſpoſed to purſue with vengeance the United States, they might perhaps ravage their coaſts, and injure them in this way, but they never could ſubdue them: the meaſure he thought utterly impracticable, even if attempted by France and her allies. To which M. Y. aſſented. Mr. Gerry obſerved further, that the ravages alluded to would undoubtedly cloſely connect

the United States and Great Britain, and prevent the former from returning to the friendſhip which they have ever had for France: that as to the propoſitions, he ſhould expreſs no opinion on them; that his ſituation, and that of his colleagues, was extremely difficult; that the Directory were excluſively prejudiced againſt the government of the United States, and conſidered them as the friends of Great Britain; that if the Envoys could have an opportunity of being heard, they could remove ſuch impreſſions, and ſhow that the government were the friends of France as much as of Great Britain; but that the Envoys were now in the moſt painful ſituation; that they were treated, in the eyes of all Europe, and of the American government and nation, with the utmoſt contempt; and were ſubmitting to indignities which they could not reconcile to their feelings, or juſtify to their conſtituents. M. Y. ſaid that the obſervations were juſt: but that the American Envoys had not experienced worſe treatment than other miniſters, nor indeed as bad; that the Envoy of Portugal was again ordered to depart; and that but little ceremony was obſerved to the Envoys in general. M. Y. and Mr. Gerry then took a ride to M. Talleyrand's Bureau, who received them politely: and after being ſeated, Mr. Gerry obſerved to M. Talleyrand, in Engliſh, ſlowly, that M. Y. had ſtated to him, that morning, ſome propoſitions as coming from M. Talleyrand, reſpecting which Mr. Gerry could give no opinion; that his object at this interview was, to requeſt of him information whether he would fix a time for taking a dinner with Mr. Gerry, at which he propoſed to invite his colleagues; that he wiſhed for more frequent interviews of ſome kind or other between himſelf and the Envoys; conceiving that many imaginary difficulties which obſtructed the negociation, would vaniſh by this means; and that thoſe which were real, would be ſurmounted: that conceiving the delicate part which the Miniſter of France had to act at this time, he did not wiſh M. Talleyrand to accept the invitation, if it would ſubject him to inconveniences: that he wiſhed to ſpeak on another ſubject; and it was painful to him to acknowledge, that the precarious ſituation of the Envoys was ſuch, as to render it impoſſible for them to take meaſures for decent arrangements; that a ſhort time ſince, he had ſuppoſed meaſures were taking a favorable turn; but that lately he had received, from various quarters, information of a report made by the miniſter of the interior, and under the conſideration of the Directory, for ſending all Americans from Paris in twenty-four hours; that he could not be reſponſible for the truth of the information, but it appeared to him, as well from the various quarters from which it came, as from the intelligence of the perſon who gave it, to be highly probable; that if this was the caſe, it was unneceſſary for the directory, as he conceived, to paſs any arrête, as it reſpected the Envoys, for that they would depart from Paris whenever it was hinted as the wiſh of the Directory; that for his own part, he ſhould feel more at eaſe, until we were received, to reſide in a city of ſome other nation than that of France: and to return to Paris on notice that the Directory were diſpoſed to open the negociation. M. Talleyrand appeared to be very uneaſy at this declaration; but avoided ſaying a word on it. He ſaid that the information M. Y. had given me was juſt, and might always be relied on: but that he would reduce to writing his propoſitions; which he accordingly did; and after he had ſhown them to Mr. Gerry, he burnt the paper. The ſubſtance was as follows. [See No. 1. page 45.]

He then ſaid, that he accepted of the invitation; that he would dine with him the decade after the preſent, in which he was engaged.

Mr. Gerry did not repeat all that he had ſaid to M. Y. having no doubt he would communicate the whole to M. Talleyrand. And, after expreſſing a friendſhip for the French Republic, and a warm deſire to renew the former attachments of the two republics, which M. Talleyrand warmly reciprocated, Mr. Gerry bid M. Talleyrand adieu; leaving with him M. Y.

(No. 1.)

That the Envoys ſhould come forward generally, and ſay:

"France has been ſerviceable to the United States, and now they wiſh to be ſerviceable to France: underſtanding that the French Republic has ſixteen millions of Dutch reſcriptions to ſell, the United States will purchaſe them at par, and will give her further aſſiſtance when in their power.

"The firſt arrangement being made, the French government will take meaſures for re-imburſing the equitable demands of America ariſing from prizes, and to give free navigation to their ſhips in future."

(No. 5.)

Paris, January 8th, 1798.

DEAR SIR,

WE embrace an unexpected opportunity to ſend you the 'Redacteur' of the fifth inſtant, containing the meſſage of the Directory to the Council of Five Hundred, urging the neceſſity of a law to declare as good prize, all neutral ſhips having on board merchandizes and commodities, the production of England, or of the Engliſh poſſeſſions, that the flag, as they term it, may no longer cover the property:—And declaring further, that the ports of France, except in caſe of diſtreſs, ſhall be ſhut againſt all neutral ſhips, which, in the courſe of their voyage, ſhall have touched at an Engliſh port. A commiſſion has been appointed to report on the meſſage, and it is expected that a decree will be paſſed in conformity to it.

Nothing new has occurred ſince our laſt, in date of the twenty-fourth ultimo. We can only repeat that there exiſts no hope of our being officially received by this government, or that the objects of our miſſion will be in any way accompliſhed.

We have the honour to be,
With great reſpect,
Your moſt obedient ſervants,
CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

Timothy Pickering, Eſquire.

Poſtſcript to a triplicate of the Envoys' letter, No. 5, received 30th March, 1798.

The law abovementioned has been paſſed unanimouſly by the Council of Five Hundred, and we incloſe a journal containing the account. There is no doubt, but that it will be adopted, without oppoſition, by the Council of Ancients.

TRANSLATION.

Meſſage to the Council of Five Hundred, of the 15th Nivoſe, 6th year, (4th of Jan. 1798.)

CITIZENS REPRESENTATIVES,

On this day, the fifteenth of Nivoſe, and at the very hour at which the Executive Directory addreſſes this meſſage to you, the municipal adminiſtrators, the juſtices of the peace, the commiſſaries of the Directory, and the ſuperintendants of the cuſtoms, are proceeding, in all the chief places of the departments, in all the ports, and in all the principal communes of the republic, to ſeize the Engliſh merchandize now in France, or introduced into its territory in contravention of the law of the tenth Brumaire, fifth year, (Oct. 31ſt, 1796.)

Such is the firſt act by which, now that peace is given to the continent, the war declared long ſince againſt England, is about to aſſume the real character which becomes it. The French will not ſuffer a power, which ſeeks to found its proſperity upon the misfortune of other nations, to raiſe its commerce upon the ruin of that of other ſtates, and which, aſpiring to the dominion of the ſeas, wiſhes to introduce, every where, the articles of its own manufacture, and to receive nothing from foreign induſtry—any longer to enjoy the fruit of its guilty ſpeculations.

The Engliſh government has kept in pay, during the war, the coaleſced forces with the produce of its manufactures. It has violated all the principles of the law of nations, in order to ſhackle the relations of neutral powers; it has cauſed to be ſeized the proviſions, corn, and commodities, which it ſuppoſed to be deſtined for France: it has declared contraband every thing which it thought could be uſeful to the Republic—It deſired to ſtarve it. All the citizens call for vengeance.

When it had to fear the capture of veſſels ſailing under its flag, it corrupted foreign captains to induce them to take on board their veſſels Engliſh merchandize, and thus to introduce it, by ſtratagem, by fraud, or otherwiſe, into other ſtates, and eſpecially into the French Republic.

The neutral powers ſhould have perceived, that, by this conduct, their merchants took part in the war, and that they lent aſſiſtance to one of the belligerent powers.

We ſerve a party, as well when we procure for it the means of augmenting its forces, as when we unite ourſelves to thoſe which it has. The neutral powers ſhould have perceived, that England, by ſtopping the veſſels of other powers, laden in their reſpective ports, and deſtined for France, by permitting articles coming from her own manufactories alone to circulate, aimed at an excluſive commerce, and that it would be neceſſary to ſeek reparation for ſuch an attempt.

The ordinance of the marine, and the regulation of 1704, have declared lawful prize, the veſſels and their cargoes in which is found Engliſh merchandize belonging to enemies. Theſe proviſions ſhould be extended. The intereſt of Europe requires it.

The Directory thinks it urgent and neceſſary to paſs a law, declaring, that the character of veſſels, relative to their quality of neutral or enemy, ſhall be determined by their cargo, and the cargo ſhall be no longer covered by the flag: in conſequence, that every veſſel found at ſea, having on board Engliſh proviſions and merchandize as her cargo, in whole or in part, ſhall be declared lawful prize, whoſoever may be the

proprietor of theſe proviſions or merchandize; which ſhall be reputed contraband, for this cauſe alone, that they come from England or her poſſeſſions.

It would be uſeful to declare, at the ſame time, that except in the caſe of diſtreſs, the ports of the Republic ſhall be ſhut to all foreign veſſels, which, in the courſe of their voyage, ſhall have entered thoſe of England.

The Executive Directory requeſts you, citizens repreſentatives, to adopt theſe meaſures. No neutral or allied power can miſtake their object, nor complain of them, unleſs it be already abandoned to England. The infallible effect of the meaſure is to enhance the value of the produce of their own ſoil and induſtry, to increaſe the proſperity of their commerce, to repel every thing that comes from England, and eſſentially to influence the concluſion of the war.

Such are the motives which induce the Executive Directory to invite you, citizens repreſentatives, to take the object of this meſſage into the moſt prompt conſideration.

(Signed) P. BARRAS, Preſident.
LAGARDE, Secretary-General.

Plan of a Decree reported by M. Villers to the Council of Five Hundred, in its ſitting of the 11th of January, 1798, tranſlated from a Paris paper, entitled Journal du Soir, of the ſame day, incloſed in the triplicate of the Envoys' letter, No. 5, dated 8th January, 1798.

" Firſt, The character of a veſſel, relative to the quality of neuter or enemy, is determined by her cargo.

" In conſequence, every veſſel loaded in whole or in part with Engliſh merchandize, is declared lawful prize, whoever the owner of the ſaid merchandize may be.

" 2d, Every foreign veſſel which, in the courſe of her voyage, ſhall have entered an Engliſh port, ſhall not enter France, except in caſe of diſtreſs: ſhe ſhall depart thence as ſoon as the cauſes of her entry ſhall have ceaſed."

This decree was immediately and unanimouſly adopted.

MESSAGE *of the* PRESIDENT *of the* UNITED STATES, *to both Houſes of* CONGRESS.

Gentlemen of the Senate, and
Gentlemen of the Houſe of Repreſentatives,

I NOW tranſmit to Congreſs copies of all the communications, from our Envoys Extraordinary, received ſince their arrival in Paris, excepting thoſe before preſented by me to both Houſes.

JOHN ADAMS.

United States,
May 4th, 1798.

(No. 6.)

Paris, February 7th, 1798.

DEAR SIR,

WE tranſmit to you, in this incloſure, our laſt letter to the Miniſter of Foreign Relations. Though dated the 17th ult. it was not, on account of the time taken to tranſlate ſo long a letter, delivered till the 31ſt. In our communications here, although we have, agreeably to your inſtructions, written in our own language, we have at the ſame time taken the precaution, leſt our meaning ſhould be miſrepreſented or miſunderſtood, to accompany them with an accurate tranſlation. We have not yet received any anſwer to this communication, and ſhould no notice be taken of it in a few days, we ſhall apply in a more explicit manner for our paſſports.

The Councils have paſſed the decree mentioned in No. 5, as having been recommended by the Directory, to capture and condemn all neutral veſſels laden in part or in whole with the manufactures or productions of England or its poſſeſſions. We incloſe you the official copy of the report on that ſubject, and ſhall repreſent to this government the injuſtice and injury which it muſt inevitably occaſion us.

We have the honor to be,
With great reſpect,
Your moſt obedient humble ſervants,
CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

Colonel Pickering, Secretary of the United States.

To the Miniſter of Foreign Affairs of the French Republic.

Citizen Miniſter,

THE underſigned Miniſters Plenipotentiary and Envoys Extraordinary from the United States of America to the French Republic, have been hitherto reſtrained by the expectation of entering on the objects of

their miſſion in the forms uſual among nations, from addreſſing to the Executive Directory, thro' you, thoſe explanations and reclamations with which they are charged by the government they repreſent. If this expectation is to be relinquiſhed, yet the unfeigned wiſh of the United States to reſtore that harmony between the two republics, which they have ſo unremittingly ſought to preſerve, renders it the duty of the underſigned to lay before the government of France, however informal the communication may be deemed, ſome conſiderations, in addition to thoſe heretofore ſubmitted, relative to the ſubſiſting differences between the two nations.

Openly and repeatedly have France and America interchanged unequivocal teſtimonials of reciprocal regard. Theſe teſtimonials were given by the United States, with all the ardor and ſincerity of youth. It is ſtill believed that on the part of France they were likewiſe the offspring of real eſteem. They were conſidered on the other ſide of the Atlantic as evidencing a mutual friendſhip to be as durable as the Republics themſelves. Unhappily the ſcene is changed; and America looks around in vain for the ally or the friend. The contraſt both of language and of conduct, which the preſent ſo avowedly exhibits to a portion of the paſt, has been repeatedly attributed by France, to a diſpoſition alledged to exiſt in the government of the United States, unfriendly to this Republic, and partial towards its enemies.

That government, aſtoniſhed at a reproach, ſo unfounded in fact, ſo contradicted by its declarations and its conduct, could ſcarcely conſider the charge as ſerious, and has ever cheriſhed the hope, that a candid review of its conduct founded on the documents, and aided by the arguments with which the Executive Directory has been furniſhed would have reſcued it from the injurious ſuſpicion. This hope ſeems not to have been realized. The underſigned, therefore, deem it proper to precede their application for that juſtice which they claim from France, by an effort to remove the cauſe, which is alledged to have produced the injuries of which they complain. With this view, they pray the attention of the Executive Directory to a ſerious and candid conſideration of the leading meaſures adopted by the government of the United States, and they perſuade themſelves, that however various and multiplied the channels may be thro' which miſ-information, concerning the diſpoſitions of that government, may have been received; yet this conſideration muſt remove unfounded prejudices and entirely exculpate the American nation from an accuſation it knows to be unfounded, and believes to be ſupported by no ſingle fact.

When that war which has been waged with ſuch unparalleled fury, which, in its vaſt viciſſitudes of fortune, has alternately threatened the very exiſtence of the conflicting parties, but which, in its progreſs, has ſurrounded France with ſplendor, and added ſtill more to her glory than to her territory, when that war firſt involved thoſe nations with whom the United States were in habits of friendly intercourſe, it became incumbent on their government to examine their ſituation, their connexions and their duties. America found herſelf at peace with all the belligerent powers. She was connected with ſome of them by treaties of amity and commerce, and with France by a treaty of alliance alſo. Theſe ſeveral treaties were conſidered with the moſt ſerious attention, and with a ſincere wiſh to determine by fair conſtruction the obligations whice they really impoſed.—The reſult of this enquiry was a full conviction, that her engagements by no means bound her to take part in the war, but left her ſo far the miſtreſs of her own conduct as to be at perfect liberty to obſerve a ſyſtem of real neutrality. It is deemed unneceſſary to analize thoſe treaties in order to ſupport the propriety of this deciſion, becauſe it is not recollected ever to have been queſtioned and is believed not to admit of doubt.

Being bound by no duty to enter into the war, the government of the United States conceived itſelf bound by duties the moſt ſacred to abſtain from

it. Contemplating man, even in a different ſociety, as the natural friend of man, a ſtate of peace, though unſtipulated by treaty, was conſidered as impoſing obligations not to be wantonly violated.

Theſe obligations, created by the laws of nature, were in ſome inſtances ſtrengthened by ſolemn exiſting engagements, of which good faith required a religious obſervance.

To a ſenſe of moral right, other conſiderations of the greateſt magnitude were added, which forbade the government of the United States to plunge them unneceſſarily into the miſeries of the bloody conflict then commencing. The great nations of Europe either impelled by ambition, or by exiſting or ſuppoſed political intereſts, peculiar to themſelves, have conſumed more than a third of the preſent century in wars. Whatever cauſes may have produced ſo afflicting an evil, they cannot be ſuppoſed to have been entirely extinguiſhed, and humanity can ſcarcely indulge the hope, that the temper or condition of man is ſo altered as to exempt the next century from the ills of the paſt. Strong fortifications, powerful navies, immenſe armies, the accumulated wealth of ages and a full population, enable the nations of Europe to ſupport thoſe wars in which they are induced to engage, by motives which they deem adequate, and by intereſts excluſively their own. In all reſpects different is the ſituation of the United States: poſſeſſed of an extenſive unſettled territory, on which bountiful nature has beſtowed, with a laviſh hand, all the capacities for future legitimate greatneſs, they indulge no thirſt for conqueſt, no ambition for the extenſion of their limits. Encircled by no dangerous powers, they neither fear, nor are jealous of their neighbours, and are not on that account obliged to arm for their own ſafety. Separated from Europe by a vaſt and friendly ocean, they are but remotely, if at all, affected by thoſe intereſts, which agitate and influence this portion of the globe. Thus circumſtanced, they have no motive for volutary war. On the contrary, the moſt powerful conſiderations urge them to avoid it.—An extenſive and undefended commerce, peculiarly neceſſary to a nation which does not manufacture for itſelf, which is, and for a long time to come, will be almoſt excluſively agricultural, would have been its immediate and certain victim. The ſurplus produce of their labour muſt have periſhed on their hands, and that increaſe of population, ſo eſſential to a young country, muſt, with their proſperity, have ſuſtained a ſerious check. Their exertions too would not have been conſiderable, unleſs the war, had been transferred to their own boſom.

Great as are the means and reſources of the United States for ſelf-defence, it is only in ſelf-defence that thoſe reſources can be completely diſplayed. Neither the genius of the nation, nor the ſtate of its finances, admit of calling its citizens from the plough, but to defend their own liberty and their own fire-ſides. How criminal muſt have been that government which could have plunged its conſtituents into a war, to which they were neither impelled by duty or ſolicited by intereſt; in which they committed ſo much to hazard; in which they muſt ſuffer, in order to act efficiently, and could only diſplay their energy in repelling invaſion? But motives ſtill more powerful than the calamities of the moment, have influenced the government of the United States.

It was perhaps impoſſible to have engaged voluntarily in the exiſting conflict, without launching into the almoſt boundleſs ocean of European politics, without contracting habits of national conduct, and forming cloſe political connections which muſt have compromitted the future peace of the nation, and have involved it in all the future quarrels of Europe. A long train of armies, debts and taxes, checking the growth, diminiſhing the happineſs, and perhaps endangering the liberty of the United States, muſt have followed the adoption of ſuch a ſyſtem. And for what purpoſe ſhould it have been adopted? For what purpoſe ſhould America thus burthen herſelf with the conflicts of Europe?—Not to comply with any engagement,

ſhe has formed; not to promote her own views, her own objects, her own happineſs, or her own ſafety; but to move as a Satellite around ſome greater Planet, whoſe laws ſhe muſt of neceſſity obey. In addition to theſe weighty conſiderations, it was believed that France would derive more benefit from the neutrality of America, than from her becoming a party in the war.

The determination then of the government of the United States to preſerve that neutral ſtation, in which the war found them, far from manifeſting a partiality for the enemies of France, was only a meaſure of juſtice to itſelf and to others, and did not even derogate from that predilection for this republic, which it has ſo repeatedly expreſſed and diſplayed. Having avowed this determination, encreaſed motives of honor and of duty commanded its faithful obſervance. It is not a principle which remains now to be ſettled, that a fraudulent neutrality is no neutrality at all; and that the nation, which would be admitted to its privileges, muſt alſo perform the duties it enjoins. Had the government of the United States, declared itſelf neutral, indulged its partialities by granting favours unſtipulated by treaty, to one of the belligerent powers, which it refuſed to another, it could no longer have claimed the immunities of a ſituation of which the obligations were forgotten, it would have become a party to the war, as certainly as if war had been openly and formally declared, and it would have added to the madneſs of wantonly engaging in ſuch a hazardous conflict, the diſhonor of inſincere and fraudulent conduct: it would have attained circuitouſly an object which it could not plainly avow, or directly purſue, and would have tricked the people of the United States into a war, which it could not venture openly to declare.

It was matter of real delight to the government and people of America, to be informed that France did not wiſh to interrupt the peace they enjoyed.

The underſigned have been induced to reſt upon this firſt, neceſſary and deciſive ſtep, taken by their government, altho' its propriety may not be controverted, from a conviction, that if the right of the United States, to obſerve a fair and honeſt neutrality be eſtabliſhed, the general charges of an unfriendly diſpoſition, made againſt them by France, muſt be relinquiſhed, becauſe the facts, by which thoſe charges are ſupported, will be found to have grown inevitably out of that ſituation.

This meaſure was accompanied by another, which, in repelling ſo aſtoniſhing a charge as partiality for the enemies of France, deſerves to be noticed. Soon after the government of the United States had notified to its citizens the duties which its neutrality enjoined, Mr. Genet, the firſt miniſter from this Republic, arrived at Philadelphia: altho' his conduct had been ſuch as to give cauſe for ſerious alarm, altho' before he was even acknowledged as a miniſter, or had reached the authority which could inſpect his credentials, he had aſſumed the functions of the government to which he was deputed. Yet that government reſolved to ſee in him, only the repreſentative of a Republic, to which it was ſincerely attached, gave him the ſame warm and cordial reception which he had experienced from its citizens, without a ſingle exception, from Charleſton to Philadelphia. The then ſituation of France deſerves to be remembered.

While the recollection adds, citizen miniſter, to the glory with which your nation is encircled, it eſtabliſhes the ſincerity of the United States.

The moſt formidable combination, the world had ever ſeen, threatened the extermination of this Republic. Auſtria, Germany, Pruſſia, Britain, Spain, Holland and Sardinia; were in arms againſt France and Ruſſia was leagued in the coalition. Nor was this all. The Republic, diſtracted by internal diviſions, contained numerous enemies within its own boſom, and a conſiderable portion of its proper force was arrayed againſt itſelf. In ſuch a ſtate of things, the moſt ſanguine might fear, and the moſt ardent heſitate. Confident in their ſtrength, and relying on ſucceſs, the coaleſced powers

ſought to arm in their cauſe, the reſidue of the world, and deemed it criminal to acknowledge the ſovereignty of the Republic. The nations of Europe, even thoſe who had not entered into the conteſt, were either themſelves unwilling to acknowledge this ſovereignty, or were detered by fear from doing ſo. Had the partialities of America been againſt France, this example would have been followed. According to the rules of ordinary calculation, the meaſure would have been ſafe, and conſequently a government, feeling the attachments now ſo unjuſtly attributed to that of the United States, would have indicated thoſe attachments by its adoption. Far from purſuing ſuch a ſyſtem the United States, unawed by the ſtrength of the coalition, received with open arms the miniſter of this Republic, acknowledged with enthuſiaſm the government which had deputed him, overlooked his extraordinary attacks on their ſovereignty, and manifeſted a cordial friendſhip for his nation and a ſincere wiſh for its ſucceſs.

Scarcely were the firſt ceremonies of his reception over, when Mr. Genet diſplayed a diſpoſition to uſurp and exerciſe within the United States, the choiceſt and moſt important duties and powers of ſovereignty. He claimed the privileges of arming and embodying the citizens of America within their own territory, to carry on from thence expeditions againſt nations with whom they were at peace, of fitting out and equipping, within their limits, privateers, to cruize on a commerce deſtined for their ports; of erecting within their juriſdiction, an independent judiciary, and of arraigning their government at the bar of the people. The underſigned will not aſk in what manner France would have treated any foreign miniſter, who ſhould have dared ſo to conduct himſelf towards this republic? But in what manner would the American government have treated ſuch a miniſter, if the repreſentative of a nation it viewed with coldneſs, or even indifference? In what manner would it have treated him, had he been the repreſentative of any other nation than France? No man acquainted with that government can doubt how theſe enquiries ought to be anſwered. From the miniſter of France alone could this extraordinary conduct be borne with temper. To have continued to bear it, without perceiving and feeling its extreme impropriety, would have been to have merited the contempt as well of France as of the other powers of the earth. The government of the United States did feel it; but far from transferring to his nation that reſentment, which ſuch conduct could not fail to excite, it diſtinguiſhed ſtrongly between the government and its miniſter, and the repreſentations it made were in the language of a friend afflicted, but not irritated, by the injuries it complained of. The recall of that miniſter was received with univerſal joy, as a confirmation that his whole ſyſtem of conduct was attributable only to himſelf; and not even the publication of his private inſtructions could perſuade the American government to aſcribe any part of it to this Republic.

At the ſame time the exertions of the United States to pay up the arrearages of their debt to France, which had been unavoidably permitted to accumulate, their diſintereſted and liberal advances to the ſufferers of St. Domingo, thrown ſuddenly upon them, without proviſions or money, whoſe recommendation was, that they were Frenchmen and unfortunate; the perſeverance with which they appologized for and aſcribed any occaſional injuries they ſuſtained to the force of circumſtances; the intereſt which they continued openly to take in all the fortunes of this Republic, manifeſted partialities of a very different ſort from thoſe which have been ſo unjuſtly attributed to them.

At this period too, a great principle was brought into diſcuſſion, the diſpaſſionate conſideration of which is eſſential to the fair eſtimate of the charges made by France againſt the government of the United States. The property of French citizens was taken by Britiſh cruizers and ſhips of war, out of American bottoms, and the American government ſubmitted to

the practice. The propriety of ſubmitting to it, depends entirely on the naked right of the captors, under the exiſting circumſtances of the caſe, to exerciſe ſuch a power. The circumſtances were theſe: In the treaty of commerce made between France and the United States in February 1778, it was ſtipulated in ſubſtance, that neither party ſhould take out of the veſſels of the other, the goods of its enemy, but the character of the bottom ſhould be imparted to its cargo. With England the United States had made no ſtipulation on the ſubject.

It follows then that the rights of England, being neither diminiſhed or encreaſed by compact, remained preciſely in their natural ſtate, and were to be aſcertained by ſome pre-exiſting acknowledged principle.

This principle is to be ſearched for in the law of nations. That law forms, independent of compact, a rule of action by which the ſovereignties of the civilized world conſent to be governed. It preſcribes what one nation may do without giving juſt cauſe of war, and what, of conſequence, another may and ought to permit, without being conſidered as having ſacrificed its honor, its dignity or its independence.

What then is the doctrine of the law of nations on this ſubject? Do neutral bottoms, of right and independent of particular compact, protect hoſtile goods? The queſtion is to be conſidered on its mere right, uninfluenced by the wiſhes or the intereſts of a neutral or belligerent power.

It is a general rule, that war gives to a belligerent power a right to ſeize and confiſcate the goods of his enemy. However humanity may deplore the application of this principle, there is perhaps no one to which man has more univerſally aſſented, or to which juriſts have more uniformly agreed. Its theory and its practice have unhappily been maintained in all ages. This right then may be exerciſed on the goods of an enemy wherever found, unleſs oppoſed by ſome ſuperior right. It yields by common conſent to the ſuperior right of a neutral nation to protect, by virtue of its ſovereignty, the goods of either of the belligerent powers, found within its juriſdiction. But can this right of protection, admitted to be poſſeſſed by every government within its own limits, in virtue of its abſolute ſovereignty, be communicated to a veſſel navigating the high ſeas?

It is ſuppoſed that it cannot be ſo communicated; becauſe the ocean being common to all nations, no abſolute ſovereignty can be acquired in it: the rights of all are equal, and muſt neceſſarily check, limit and reſtrain each other. The ſuperior right therefore of abſolute ſovereignty, to protect all property within its own territory, ceaſes to be ſuperior, when the property is no longer within its own territory, and may be encountered by the oppoſing acknowledged right of a belligerent power, to ſeize and confiſcate the goods of his enemy. If the belligerent permits the neutral to attempt without hazard to himſelf, thus to ſerve and aid his enemy, yet he does not relinquiſh the right of defeating that attempt whenever it ſhall be in his power to defeat it. Thus it is admitted that an armed veſſel may ſtop and ſearch at ſea a neutral bottom, and may take out goods, which are contraband of war, without giving cauſe of offence, or being ſuppoſed in any degree to infringe neutral rights. But this practice could not be permitted within the rivers, harbours or other places of a neutral, where its ſovereignty was complete. It follows then that the full right of affording protection to all property whatever, within its own territory, which is inherent in every government, is not transferred to a veſſel navigating the high ſeas. The right of a belligerent over the goods of his enemy within his reach, is as complete, as his right over contraband of war; and it ſeems a poſition not eaſily to be refuted, that a ſituation that will not protect the one, will not protect the other. A neutral bottom then does not of right, in caſes where no compact exiſts, protect from his enemy the goods of a belligerent power.

To this reaſoning, the practice of nations has conformed, and the common underſtanding of mankind ſeems to have aſſented. Vattel, B. 3. Sect.

115, says positively, "that effects belonging to an enemy, found on board a neutral ship are seizable by the rights of war".

Vattel is believed to be supported by the most approved writers on the same subject. It is deemed unnecessary to multiply citations to this point; because France herself is supposed to have decided it. In her maritime ordonnance of the year 1744, which is considered as having been in force in 1778, enemy goods in neutral bottoms, generally, are declared liable to seizure and confiscation. From the operation of this rule are excepted the vessels of Denmark, and the United Provinces, to whom special treaties secured the exception. In the ordonnance too of the 26th July, 1778, the first article of which is considered as forbidding the cruizers of France to stop and bring into port neutral vessels, having on board the goods of an enemy, a power is reserved to revoke the privilege granted to neutrals by that article, if the enemy should not grant the same privilege within six months from the publication of that regulation. This clearly indicates a conviction, that the exemption from the capture of the goods of an enemy, which should be found on board the vessel of a neutral power, not having stipulated such exemption by treaty, was a privilege granted by the ordonnance, and that the mere revocation of the ordonnance would abolish the privilege, and restore the ancient rule. It will not be contended that France has continued in a long course of practice and of legislation opposed to her own opinion of the law of nations. It must then be considered as the opinion of France, that under that law neutral bottoms afford no protection to the goods of an enemy. This principle, thus admitted to have been established, is supposed by some to have been changed by the armed neutrality. A new law of nations, it is contended, was introduced, by that confederation. But who were the parties to that federation, and what was its object? The northern maritime powers of Europe united to protect by force, in their own bottoms, during the then existing war, the goods of either and of all the belligerent powers. The compact in its own nature was confined with respect to its objects and its duration. It did not purport to change nor could it change permanently and universally the rights of nations not becoming parties to it. It did indeed hold forth the promise of future more permanent and more general engagements for the same object, but such engagements were never formed. How then can this temporary and partial convention be considered as altering, radically and generally, principles which have been universally adopted, and in the modification of which all have an interest? Would France herself admit that a combination, such as that which constituted the armed neutrality, may rightfully change the law of nations, and establish a new code of universal obligation? It is believed that no nation on earth would more perseveringly oppose such an invasion of its sovereignty.

There seems then to be no solid ground for maintaining, that the general law of nations has been at all varied by the armed neutrality.

It remains to enquire whether the treaties, between France and the United States, pledge either nation to assert and establish the principle, that free bottoms make free goods.

The treaty of amity and commerce, concluded the 6th February 1778, stipulates reciprocally for the right of trading with and protecting the goods of the enemy of either party in the vessels of the other, and in turn surrenders its own goods found in the vessels of an enemy, but it contains no clause imposing on either party the duty of extending the principle, or of supporting its application to other nations. The stipulations of that treaty are negative as well as affirmative. They specify as well the disabilities intended to be created and the duties to be imposed, as the privileges designed to be granted. Had it been intended that either nation should have been bound to maintain this principle in its intercourse with others, or should have been in any degree incapaciated from prosecuting freely that

intercourſe, without the previous admiſſion of the principle, a ſtipulation to that effect would have been made. No ſuch ſtipulation having been made, the parties cannot be preſumed to have intended it. Indeed it would have been madneſs in the United States, under their actual circumſtances, to have formed ſuch an agreement. There being no expreſs ſtipulation to this effect, it cannot be ſuppoſed to have been implied. Nations forming a ſolemn compact which ought to regulate their conduct towards each other which is to be reſorted to as the ſtandard for adjuſting their differences, do not leave to implication ſuch delicate and important points. Indeed if a great principle not mentioned is permitted to be implied, the object of a written agreement, which is itſelf to evidence all the obligation it creates, is totally defeated. But who is to make the implication, and to what extent is implication to be allowed? It is very eaſy to perceive, that the doctrine of implying in contracts ſtipulations never formed, would deſtroy all certainty of conſtruction, and open a boundleſs field of controverſy to the contracting parties.

It reſults from the very nature of a contract which affects the rights of the parties, but not of others, and from the admiſſion of a general rule of action, binding independent of compact, which may be changed by conſent, but is only changed ſo far as that conſent is actually given, that a treaty between any two nations muſt leave to all others thoſe rights which the law of nations acknowledges; and muſt leave each of the contracting parties ſubject to the operation of ſuch rights. For the truth of this poſition, believed to be ſo clear in itſelf, and which it is ſuppoſed the hiſtory of all Europe will illuſtrate, the ordonnance of 1744, already quoted, is conſidered as furniſhing an unequivocal authority. By that ordonnance the law of nations is applied to all thoſe neutrals with whom France had not ſtipulated, that the quality of their bottoms ſhould be imparted to their cargoes, while thoſe with whom ſuch ſtipulations had been made are exempted from the application of the law.

The deſire of eſtabliſhing univerſally the principle that neutral bottoms ſhall make neutral goods, is perhaps felt by no nation on earth, more ſtrongly than by the United States. Perhaps no nation is more deeply intereſted in its eſtabliſhment. It is an object they keep in view, and which, if not forced by violence to abandon it, they will purſue in ſuch manner as their own judgment may dictate as being beſt calculated to attain it; but the wiſh to eſtabliſh a principle is eſſentially different from a determination that it is already eſtabliſhed. The intereſts of the United States could not fail to produce the wiſh: their duty forbid them to indulge it, when deciding on a mere right. However ſolicitous America might be to purſue all proper means, tending to obtain for this principle the aſſent of all or any of the maritime powers of Europe, ſhe never conceived the idea of obtaining that conſent by force.

The United States will only arm to defend their own rights: neither their policy nor their intereſts permit them to arm, in order to compel a ſurrender of the rights of others. Theſe and other conſiderations, which have been ſubmitted to the government of France, produced on the part of the United States a deciſion, that their bottoms could not of right protect the goods of a belligerent power from an enemy not bound to reſpect the principle. This deciſion was founded on the moſt perfect conviction, that it was enjoined by the law of nations; and that good faith, reſpect for truth, and for the duties of an upright and honeſt judgment, rendered it indiſpenſible. This conviction remains unſhaken. If thoſe articles, which ſtill appear concluſive to the American government, have not the ſame operation on the judgment of France, they muſt at leaſt be ſufficient to evince the ſincerity with which that government has acted, and to prove that its conduct, in this reſpect, was produced by a ſenſe of duty, and not by any partiality for a nation againſt which it was, at that time, conſiderably irritated by other cauſes.

The underſigned, citizen miniſter, rely too implicitly on your candour and diſcernment, to apprehend, that you will eſtimate improperly, the motives which on this eſſential point have influenced and guided the United States.

The early deciſion of the American government on this ſubject was immediately avowed, openly and amply ſupported by Mr. Jefferſon, the then Secretary of State, in his letter to Mr. Genet, dated the 24th July, 1793; and in his letter to Mr. Morris, dated 16th Auguſt in the ſame year. The arguments, which thoſe letters contain, were ſuppoſed to have ſatisfied the government of France, ſince its miniſters in the United States no longer controverted the principle they ſupported. Indeed thoſe arguments appeared too concluſive to permit a doubt concerning the ſucceſs which would attend them.

In Auguſt 1794, when Mr. Monroe, the then miniſter of the United States to this Republic, was received into the boſom of the convention, France obviouſly did not conſider the acknowledgement of this eſtabliſhed principle of the law of nations, as indicating a partiality towards her enemy. The language uſed on the occaſion could only have been uſed to the miniſter of a nation, whoſe friendſhip was valued, and whoſe conduct had evinced the ſincerity of its profeſſions. It was then declared "that the ſweeteſt, the frankeſt fraternity united in effect the two Republics," and that "their union would be forever indiſſoluble." Theſe declarations, made long after America had avowed its neutrality, and had avowed its acquieſcence under the principle, that a belligerent power, unreſtrained by particular treaty, may of right take out of the bottoms of a neutral, the goods of its enemy, demonſtrate that neither that neutrality nor that acquieſcence induced the want of a proper regard for France. The government of the United States ſtill cheriſhes the hope, that this true and fair eſtimate, then made of its conduct, may be ſoon reſumed by a nation whoſe friendſhip it has aſſiduouſly and unremittingly cultivated, by all thoſe means which good faith and juſtice could permit it to uſe.

After the diſcuſſion of this intereſting queſtion was ſuppoſed to have been cloſed, and France was believed to have been entirely content with that ſyſtem in which the United States found themſelves bound to perſevere, ſome complaints were made, not againſt the principles adopted by the government, but againſt the application of thoſe principles to particular caſes ſuppoſed not to come within them. The neutrality of the United States could not permit prize to be made of veſſels belonging to nations with whom they were at peace, within their juriſdiction; or by Privateers fitted out in their own ports. Regulations to this effect were neceſſarily made; and to enforce the obſervance of thoſe regulations, was a duty not to be diſpenſed with. The right of one of the belligerent powers, to obtain the releaſe of a veſſel captured under ſuch circumſtances, was as ſacred as the right of the captor to a veſſel taken on the high ſeas and which according to the uſages of war was lawful prize. The United States were bound to reſpect the rights of both. To do ſo, it was neceſſary to examine the facts; for which purpoſe, a Tribunal, in which both parties might be fairly heard, was unavoidable. Some complaints were made of particular vexations, and each complaint has heretofore been particularly attended to. It is believed to be unneceſſary to review theſe ſeveral caſes, becauſe the underſigned are entirely perſuaded that explanations, already given, muſt have been completely ſatisfactory. Should any one of them be ſtill conſidered as furniſhing ſubject for complaint, the underſigned will proceed to its inveſtigation, with the moſt ſincere deſire to attain truth, and to redreſs the wrong, if any has been committed.

During this period, the cauſes of complaint againſt France, on the part of the United States, were by no means inconſiderable. Their commerce was not exempt from depredations, believed to be entirely unwarrantable, made upon it by the Cruizers of this Republic.

On the 9th of May, 1793, the National Convention paſſed a decree relative to the commerce of neutrals, the firſt article of which is in theſe words: "The French ſhips of war and privateers may ſtop and bring "into the ports of the Republic, ſuch neutral veſſels as are loaded, in "whole or in part, either with proviſions belonging to neutrals, and "deſtined for enemy ports, or with merchandize belonging to enemies." In conſequence of the remonſtrances of the American Miniſter, the convention, on the 23d May, declared, "that the veſſels of the United "States are not comprized in the regulations of the decree of the 9th "May." On the 28th of the ſame month, the Convention repealed the decree of the 23d—On the 1ſt July, they re-eſtabliſhed it. On the 27th July, it was again repealed. Under the decree of the 9th May, the veſſels of the United States were captured, brought into the ports of France, and their cargoes diſpoſed of. Could this decree, citizen miniſter, be regarded otherwiſe than as infringing the laws of nations, the rights of neutrals, and the particular engagements, ſubſiſting between France and the United States?

When on the 8th June, in the ſame year, the Britiſh government iſſued a ſimilar order, its injuſtice produced a ferment throughout America, indicating ſtrong diſpoſitions immediately to oppoſe its execution by force. The letter of Mr. Jefferſon, the then Secretary of State, to the Miniſter Plenipotentiary of the United States at London, dated the 7th Sept. 1793, and remonſtrating againſt the order of the 5th June, contains ſo much juſtneſs of ſentiment, and ſtrength of argument, as to have been quoted by your predeceſſor, in his letter to Mr. Monroe of the 9th March, 1796.

It cannot eſcape you, citizen miniſter, that the arguments of Mr. Jefferſon, concerning the order of the 8th June, apply concluſively to the decree of the 9th May; and that to them are to be added, thoſe arguments which are to be drawn from the hardſhip of being abſolutely compelled, without any alternative, to part with the cargoes in France, and thoſe alſo which are drawn from the duties impoſed by an expreſs and ſolemn treaty.

Nothing can demonſtrate more concluſively the real temper of the United States, than the difference between the reception given to the decree of the convention of the 9th May, and that which was given to the order of the Britiſh cabinet of the 8th June.

A large number of American veſſels too were for a long time detained at Bourdeaux, very much to the injury of the owners, without aſſigning a motive for ſuch detention, or putting it in the power of the government to conjecture the cauſe of a meaſure, which ſo deeply affected the intereſt of their fellow citizens—Theſe and other embarraſſments were experienced, but they could not diminiſh the attachment of the United States to France. In the midſt of them, prayers were offered up, through the whole extent of the American continent, for the ſucceſs of this Republic. The government, feeling the ſame ſentiment, diſplayed it, at leaſt as far as was compatible with the decent deportment required from a nation not a party in the war, and profeſſing neutrality. Such would not have been the conduct of a government and people, in ſecret unfriendly to France.

Very ſtrong and juſt reſentments were at that time inſpired by the hoſtile conduct of Britain. The inſtructions of June, 1793, whereby

American veſſels, laden with proviſions for France, were brought into the ports of Britain, there to ſell ſuch cargoes, or to give ſecurity to ſell them in other ports in amity with England, and the ſtill more offenſive order of November the 6th, in the ſame year, whereby veſſels laden with the produce of a French colony, or carrying proviſions to ſuch colony, were ordered to be brought in for adjudication; added to the pre-exiſting cauſes of mutual irritation, had produced ſuch a ſtate of things, as to render it obvious, that the injuries complained of by America muſt be entirely done away, or that war was the inevitable conſequence.

This ſtate of things was not ſo altered by the order of the 8th of January, 1794, revoking that of the ſixth of November, 1793, as to promiſe a different reſult. But as a nation preferring peace to war will ever make a peaceful demand of reparation for injuries ſuſtained, before that reparation is ſought by the ſword, and as the policy of America has ever been, "to purſue peace with unremitting zeal, before the laſt reſource, which has ſo often been the ſcourge of nations, and could not fail to check the advanced proſperity of the United States, was contemplated;" an Envoy Extraordinary was deputed to his Britannic Majeſty. "Carrying with him a full knowledge of the exiſting temper and ſenſibility of his country, it was expected that he would vindicate its rights with firmneſs, and cultivate peace with ſincerity."

Truly deſirous, as the American government was, of preſerving peace with Britain, its determination was unalterable, not to preſerve it, nor to receive compenſation for injuries ſuſtained, nor ſecurity againſt their future commiſſion, at the expenſe of the ſmalleſt of its engagements to France. Explicit and poſitive inſtructions to this effect were given to Mr. Jay, and thoſe inſtructions were freely communicated to the Miniſter of this Republic, then at Philadelphia. The negociation of the American Envoy terminated in a treaty in many reſpects deſirable to the United States.

But however deſirable its objects might be, the government of the United States would not have heſitated to reject them, had they been accompanied with any ſtipulation violating or weakening its engagements to France. But it has been able to diſcern no ſuch ſtipulation. The twenty-fifth article of that treaty guards the rights of this Republic by the following clauſe: "Nothing in this treaty contained ſhall, however, be conſtrued or operate, contrary to former and exiſting public treaties with other ſovereigns or ſtates." The treaty with France being a "former and exiſting public treaty," and it being thus provided that nothing contained in the treaty with Britain, "ſhould be conſtrued or operate contrary to it," the government of the United States did not apprehend that the treaty with Britain could be conſidered as affecting its relations to France. But ſuch was its attention to its ally, that the inſtrument was, previous to its ratification, ſubmitted to the conſideration of the Miniſter of this Republic, who was invited to communicate freely to the government of the United States, ſuch obſervations upon it as he might judge proper. Mr. Adet, in a letter addreſſed to Mr. Randolph, dated 12th Meſſidor, 3d year of the French Republic, (30th June, 1795) expreſſes his ſenſe of this procedure in the following words: "This frank meaſure is to me a ſure guaranty of the friendſhip of the American government towards France, and of the fidelity with which it always marks

its conduct towards a faithful ally." He then ſtated thoſe reflections, to which the reading of the treaty had given birth. The articles which relate to enemy goods in neutral bottoms, are mentioned without a comment. He contended, that the liſt of contraband was ſwelled, and that the 23d, 24th and 25th articles of the treaty with Britain, ceded to that power advantages inconſiſtent with the previous ceſſions to France. This letter was anſwered by Mr. Randolph, on the 6th of July following, who proves, that no article was enumerated in the liſt of contraband, in the treaty between the United States and Britain, which was not of that deſcription, previous to its formation, and independent of it; noticed briefly the ſubject of enemy goods in neutral bottoms; and demonſtrated, that the objections of Mr. Adet to the 23d, 24th and 25th articles were entirely founded on a miſconſtruction of them. This miſconſtruction was ſo apparent, that Britain has never claimed it, nor would the American government ever have admitted it. The letter of Mr. Randolph cloſes the ſubject of enemy contraband and of enemy property taken out of neutral bottoms, with a paragraph, to which, Citizen Miniſter, your attention is ſolicited: "Hitherto, however, "(ſays he) I have ſpoken upon principles of right. Upon any other "principles, and more eſpecially upon thoſe of hardſhip and injury to a "friend, it ſhall be a topic of the negociation now opening between us. "With the temper which will pervade the whole of it, I cannot doubt, "that ſome modification may be deviſed, and it may be ſeparated from "the general treaty, ſo as not to be delayed by it."

It was then apparent, that the government of the United States, actuated by that friendſhip which tranſcends the line of ſtrict obligation, was willing, gratuitouſly, to releaſe her ally from thoſe ſtipulations of a former treaty, which, in the courſe of events, were deemed to operate unfavourably to her. This readineſs to concede, marked that friendſhip the more ſtrongly, as the ſituations in which the two nations found themſelves could not have been unforeſeen, but was the very ſituation for which the article provides. The anſwer of Mr. Randolph concludes, with requeſting an opportunity to remove any remaining doubts, ſhould there be ſuch, by further explanations: no remaining doubts were ſtated, and therefore, as well as for its contents, the letter was believed to be entirely ſatisfactory to Mr. Adet, and it was hoped, that this government, as well as that of America, would conſider the treaty with Britain as an accommodation deſirable by the United States, and not diſadvantageous to France.

It is not eaſy to expreſs the chagrin felt by the American government on learning, that in this treaty the United States were ſuppoſed to have "knowingly and evidently ſacrificed their connections with this Republic, and the moſt eſſential and leaſt conteſted prerogatives of neutrality." With the firmneſs of conſcious integrity, the United States aver, that they have never knowingly ſacrificed or impaired their connections with this Republic, nor the prerogatives of neutrality; but that they have, according to their beſt judgment, invariably ſought to preſerve both.

The underſigned will endeavour faithfully to ſtate the impreſſions of the government they repreſent on this intereſting ſubject. The objections made to this treaty by your predeceſſor in office, in his note to Mr. Monroe, dated 19th of Ventoſe, 4th year of the French Republic, one and indiviſible (9th March, 1796) are,

1ſt. That the United States, beſides having departed from the principles eſtabliſhed by the armed neutrality, have given to England, to the detriment of their firſt allies, the moſt ſtriking mark of an unbounded condeſcenſion, by abandoning the limits given to contraband by the law of nations, by their treaties with all other nations, and even by thoſe of England with the greater part of the maritime powers.

2d. That they have conſented to extend the denomination of contraband even to proviſions. Inſtead of pointing out particularly, as all treaties do, the caſes of the effective blockade of a place, as alone forming an exception to the freedom of this article, they have tacitly acknowledged the pretenſions raiſed by England, to create blockades in the colonies, and even in France, by the force of a bare proclamation.

Mr. Adet, in his letter to Mr. Pickering, dated 25th Brumaire, 5th year of the French Republic, one and indiviſible, (15th Nov. 1796,) has repeated the ſame objections, and has been pleaſed alſo to ſuperadd ſome obſervations relative to the formation of ſuch a treaty generally, and the circumſtances attending its negociation, in terms not to have been expected by the firſt, and almoſt only voluntary friend of this Republic.

Theſe having been the only ſpecific objections officially made to the treaty with Britain, by the government of France, either in Paris or in Philadelphia, are neceſſarily ſuppoſed to be the only objections which have occurred.

They have often been diſcuſſed on the part of the United States, but that diſcuſſion will be renewed, becauſe, although the underſigned may be unable to ſuggeſt any argument not heretofore urged, they cannot reſiſt the hope, that an attentive conſideration of thoſe arguments may give them a ſucceſs which has not yet attended them.

The firſt objection may be ſuppoſed to conſiſt of two parts. 1ſt. The abandonment of the principle, that neutral bottoms make neutral goods; an objection rather inſinuated than expreſſed; and 2dly, the addition to the catalogue of contraband.

1ſt. On the firſt part of the objection, it is obſervable, that the ſtatements of the late Miniſter of Exterior Relations, and of Mr. Adet, ſeem to admit, but certainly do not controvert the poſition, that previous to the formation of the armed neutrality, a belligerent power could rightfully take out of the bottoms of a neutral the goods of its enemy. This poſition is believed to be uncontrovertible; ſome of the arguments in ſupport of it have been already detailed, and it is deemed unneceſſary to repeat or to add to them. To this principle of the armed neutrality, with a departure from which, the United States ſeem to be impliedly charged, the note of Mr. de la Croix does not aſſign any obligation whatever; nor does he appear to conſider it as having been engrafted by that confederation on the law of nations. On this point Mr. Adet has not been more explicit. He ſeems to have been content with vague inſinuations, and not to have been willing to commit himſelf by a direct averment, that in conſequence of the armed neutrality, the law of nations on this ſubject is changed. The underſigned are unwilling to combat at length; a propoſition not poſitively advanced, which they deem ſo clearly indefenſible, and will therefore refer to the brief obſervation already made reſpecting it.

It may not, however, be improper here to notice, that in February,

1778, when the treaty between France and the United States was entered into, the armed neutrality had not been formed; of conſequence, the ſtate of things on which that treaty operated, was regulated by the law of nations, as it clearly exiſted previous to the formation of the armed neutrality. It is ſuppoſed to be admitted, that according to that ſtate of things, neutral bottoms could afford no protection to the goods of an enemy. The ſtipulation then of the article of that treaty, was underſtood at the time, by the contracting parties, to form an exception to a general rule, which would retain its obligation in all caſes where it was not changed. If then the contracting parties had deſigned to impoſe on each other the neceſſity of extending this exception to other nations, ſo as to convert it into a general rule, they would have expreſſed this intention in their contract: not having expreſſed it, they muſt be conſidered as intending, that this exception ſhould form a rule as between themſelves, while the general rule ſhould govern as with other nations who had not conſented to change it.

It is alſo worthy of obſervation, that when this treaty was made, the United States were at war, and France at peace with Britain. In this ſtate of things, which might have continued, had not war been declared, or hoſtilities commenced by England, the bottoms of France would have protected, from American cruizers, Engliſh property, while they would not have protected from Britiſh cruizers American property. This was the neceſſary reſult of that ſtate of things under which the treaty was formed; America had conſented to it; and neither could or would have complained.

It is alſo to be noticed, that before the negociation with England had commenced, the government of the United States had openly avowed that opinion on this ſubject, which its beſt judgment dictated. This opinion, perfectly unconnected with that negociation, was known by all to form and regulate the baſis of its conduct. The letters from Mr. Jefferſon, already quoted, had ſtated to the world the perfect conviction of the United States, that by the law of nations, a belligerent power, not reſtrained by particular treaty, might rightfully take out of the bottoms of a neutral the goods of its enemy; as well as their determination, that they could not and ought not to oppoſe the exerciſe of this right. The right having been clearly and unavoidably admitted, and the determination to acquieſce under its exerciſe having been avowed openly, Mr. Jay could only ſolicit its ſurrender. Had no treaty been formed, or had that treaty omitted to mention the principle, the right would ſtill have exiſted, would ſtill have been acknowledged, and would ſtill have been exerciſed. The treaty does not, in fact or in expreſſion, cede a new privilege; it regulates the exerciſe of one before exiſting, and before acknowledged to exiſt. The harſh means of exerciſing this right, which are given by the law of nations, are modified and ſoftened by the treaty, and this is the only effect which the article on this ſubject has produced; it was the only motive, and it was a ſufficient motive for introducing it.

The ſecond branch of this objection ſeems more to be relied on, and comes forward in a more deciſive ſhape; it is—That the United States have abandoned the limit given to contraband by the law of nations, by their treaties with all other nations, and even by thoſe of England with a greater part of the maritime powers.

The limit of contraband is ſuppoſed to have been extended, by inſerting in the catalogue, naval ſtores, and timber for ſhip-building.

To eſtimate rightly a charge ſo warmly made, it becomes indiſpenſable to aſcertain whether theſe articles are, independent of treaty, by the law of nations contraband of war: on this ſingle point ſeems to reſt the verity of the accuſation.

It is regretted that thoſe, who have averred the negative, have not been pleaſed to furniſh authorities in ſupport of the opinion they advance. Such authorities would have been conſidered with candour, and any conviction they might have produced would have been freely acknowledged. But no ſuch authorities are furniſhed, and it is believed that none exiſt.

America ſolicitous to confine as much as poſſible, by common conſent, the liſt of contraband; but determined, however ſhe might oppoſe its enlargement, not to attempt its diminution by force, was under the neceſſity of examining the ſubject, and of aſcertaining the line of partition between the rights of neutrals and of belligerent powers.

As guides in ſuch a ſearch, ſhe could only take the moſt approved writers on the law of nations. Theſe are believed to claſs timber for ſhip-building, and naval ſtores for the equipment of veſſels, among articles admitted to be contraband of war. Vattel (B. III. c. 7. ſect. 112.) defines contraband goods to be "commodities particularly uſed in war: ſuch are arms, military and *naval ſtores, timber**, horſes, and even proviſions in certain junctures, where there are hopes of reducing the enemy by famine." The treaty between France and Denmark, concluded in 1742, places tar, roſin, ſails, hemp, cordage, maſts, and timber for ſhip-building, on the catalogue of contraband; and Valin, in his commentary on the marine ordinances of France, (Vol. 2. page 264.) ſays that "of right theſe articles are now contraband, and have been ſo from the commencement of the preſent century." In conformity with theſe opinions has been that of America; and if the law of nations was underſtood by the moſt approved juriſts, ſhe has not erred.

But the modern public law of nations, and modern treaties, are ſaid to have eſtabliſhed a different rule. If the modern public law of nations has changed the principle, ſuch change is yet unknown to the United States. It is much to be wiſhed, that more full and ſatisfactory information had been given in ſupport of an opinion, a difference on which is alledged to have produced conſequences ſo extremely calamitous.

It is not averred, that the armed neutrality has conſtituted this modern public law. It is ſuppoſed that this cannot be averred, becauſe France will never admit the right of a confederacy, whatever may be its power, to impoſe the law on thoſe who are not parties to it. It is ſuppoſed alſo, that this cannot be averred for another reaſon. The members of the armed neutrality had not themſelves agreed upon the articles which ſhould be deemed contraband. Ruſſia, the power originating that celebrated, though ſhort lived compact, publiſhed in 1780 the principles on which ſhe would maintain the commerce of her ſubjects: one of theſe was, that the articles of contraband ſhould be regulated by the 10th and 11th articles of her treaty of commerce with Great Britain.

Afterwards, Denmark entered into a convention with Ruſſia for maintaining generally the principles agreed upon; but on the ſubject of con-

* [*For ſhip-building.*]

traband in particular, Denmark adopted as the rule by which to be governed, her treaty of commerce with Great Britain, concluded the 10th of July, 1670, in the third article of which, contraband goods are described to be "*any provisions of war*, as soldiers, arms, machines, cannon, ships, or other things of *necessary use in war*." But by a convention concluded at London, on the 4th of July, 1780, between Great Britain and Denmark, to explain the treaty of commerce of 1670, between the two powers, "*Timber, for ship-building, tar, rosin, copper in sheets, sails, hemp and cordage, and generally whatever serves directly for the equipment of a vessel*, unwrought iron and fir planks excepted," are declared to be contraband.

Denmark having, in her convention with Russia adopted her treaty with England, made in 1670, as declaratory of those articles which she would consider as contraband, and having by her explanatory agreement with England substituted a particular enumeration of articles for a general description of them, not as an amendment, but as an explanation of the treaty of 1670; has taken a different rule, in the very compact referred to as establishing a modern public law of nations, from that taken by Russia. The rule of Denmark classes among contraband precisely the same articles which are enumerated as such in the treaty between the United States and Britain, and which are only found in that enumeration, because it is believed that the law of nations has unquestionably so placed them. Sweden and Holland too, in acceding to the armed neutrality, adopt their own treaties as the rule by which they will respectively be guided. There was then even among the parties to this agreement no fixed law of contraband. Had the Potentates of Europe designed to establish permanently and generally the principles of the armed neutrality, the war which originated that convention, would not have terminated without some general agreement concerning it: The efforts of Sweden to obtain a congress for examining and terminating the different concerns both of the powers at war and of the neutral states, could not have proved entirely abortive.

No argument then can be drawn from the armed neutrality in support of the position, that the modern public law of nations, relating to contraband, has been abandoned by the United States. No modern public law having been formed, the rule remains unchanged; and, at the present moment, as well as when the treaty with France was formed, is believed to ordain as contraband the articles enumerated as such in the treaty with Britain.

But it is alledged that, in this treaty, the United States have abandoned the limits given to contraband, by their treaties with all other nations, and even, by those of England with a greater part of the maritime powers.

It is true, that the United States, desirous of liberating commerce, have invariably seized every opportunity which presented itself to diminish or remove the shackles imposed on that of neutrals. In pursuance of this policy, they have on no occasion hesitated to reduce the list of contraband, as between themselves and any nation consenting to such reduction. Their pre-existing treaties have been with nations as willing as themselves to change the old rule: and consequently a stipulation to that effect, being desired by both parties, has been made without difficulty. Each contracting party is deemed to have an equivalent for the ces-

ſion made, in the ſimilar ceſſion it receives from the party with whom it contracts. Neither requires of the other, as an additional conſideration, that it ſhall propagate by the ſword the principles which form the baſis of their private agreements, and force unwilling nations to adopt them; nor that it ſhould decline to regulate by treaty its intereſts with any other nation which ſhould refuſe to accede to them: as little could either ſuppoſe that its particular contract contained any thing obligatory on others, or was capable of enlarging or diminiſhing their rights. The treaties of the United States then with other nations can only eſtabliſh the limits of contraband, as between the contracting parties, and muſt leave that ſubject, with nations not parties to the contract, to the law which would have governed had ſuch particular ſtipulation never been made. According to the exiſting ſtate of things when the negociations between the United States and Great Britain were opened, naval ſtores and timber for ſhip-building were, as between America and Britain, contraband of war: they would have retained this character had the treaty never been made: they would have retained it had the treaty contained no proviſion on the ſubject. The United States were truly deſirous of excluding them from the liſt, but Britain was unwilling to do ſo. Had the United States poſſeſſed the means of coercion, their eſtabliſhed policy, founded on the baſis of juſtice, and their own peculiar ſituation, forbid a reſort to theſe means for any other purpoſe than the defence of their own rights, or a compliance with their own engagements. It was not a caſe in which force would have been deemed juſtifiable; and the object, being unattainable by mutual conſent, was unavoidably relinquiſhed for the moment. Yet it was proper to enumerate the articles which were before contraband, and which continued to be ſo, becauſe that enumeration notified to the merchants of the United States the hazard which their commodities would encounter on the ſeas, and becauſe alſo it prevents thoſe vexatious altercations, which might otherwiſe have been produced by the efforts of one party to ſwell, and of the other to reduce the liſt.

If on the refuſal of Britain to ſubſtitute any other rule concerning contraband, in the place of that eſtabliſhed by the law of nations, France finds herſelf in a ſituation to be injured by an obſervance of her engagements with the United States, it is not the treaty with Britain, but that with France which has produced this ſituation. This was foreſeen when that treaty was entered into, and did not prevent it. The ſtipulation concerning contraband was formed when France was at peace, and America at war; although that ſtate of things did not long continue, yet its continuance was by no means deemed impoſſible. Notwithſtanding this, the government of the United States has manifeſted a willingneſs to change this ſtipulation, as well as that which reſpects enemies property in neutral bottoms, ſo ſoon as France complained of them: of this the letter from Mr. Randolph to Mr. Adet, already quoted, affords concluſive teſtimony.

It appears then on examining this objection to the treaty between the United States and Britain, that it has not added to the catalogue of contraband a ſingle article; that it has ceded no privilege, has granted no right; and that it has not changed in the moſt minute circumſtance the pre-exiſting ſituation of the United States in relation either to France or to Britain. Notwithſtanding theſe truths, the government of the United

States has haſtened to aſſure its former friend that, if the ſtipulations between them be found oppreſſive in practice, it is ready to offer up thoſe ſtipulations a willing ſacrifice at the ſhrine of friendſhip.

In vain will you ſearch in this procedure for "a known and evident ſacrifice on the part of the United States of their connections with this Republic, and of the moſt eſſential and leaſt conteſted prerogatives of neutrality." In vain will you ſearch for evidence of their "having given to England, to the detriment of their firſt allies, the moſt ſtriking mark of an unbounded condeſcention, by abandoning the limits given to contraband by the law of nations, by their treaties with all other nations, and even by thoſe of England with the greater part of the maritime powers."

The United States feel theſe reproaches, as conſcious innocence feels the imputation of guilt.

SECONDLY. It is alſo alledged, that "the United States have conſented to extend the denomination of contraband even to proviſions. Inſtead of pointing out particularly, as all treaties do, the caſes of the effective blockade of a place, as alone forming an exception to the freedom of this article, they have tacitly acknowledged the pretenſions raiſed by England to create blockades in our colonies, and even in France, by the force of a bare proclamation."

The objections to this article ſhall be conſidered according to its letter, and according to its operation.

The objectionable words are: "and whereas the difficulty of agreeing on the preciſe caſes in which alone proviſions and other articles not generally contraband may be regarded as ſuch, renders it expedient to provide againſt the inconveniences and miſunderſtandings which might thence ariſe: It is further agreed that whenever any ſuch article ſo becoming contraband according to the exiſting laws of nations, ſhall for that reaſon be ſeized, the ſame ſhall not be confiſcated; but the owners thereof ſhall be ſpeedily and completely indemnified; and the captors, or, in their default, the government under whoſe authority they act, ſhall pay to the maſters or owners of ſuch veſſels the full value of all ſuch articles, with a reaſonable mercantile profit thereon, together with the freight and alſo the demurrage incident to ſuch detention."

The admiſſions contained in this clauſe are,

FIRST, That proviſions are not generally contraband, and

SECONDLY, That they are ſometimes contraband.

An effort was made to eſtabliſh the preciſe caſes in which alone they ſhould be ſubject to ſeizure; but America would only conſent to conſider them as contraband in the caſe of an effective blockade, ſiege, or inveſtment of a place; while on the part of England this ſtrict interpretation of the rule was not admitted: but it was contended that proviſions became contraband, when there were reaſonable hopes of reducing the enemy by famine. In this oppoſition of ſentiment, to what have the United States conſented? "To extend the denomination of contraband even to proviſions?" "To acknowledge tacitly the pretenſions raiſed by England to create blockades in your colonies, and even in France, by the force of a bare proclamation?" "To ſecure to the Engliſh alone the carriage of meals?" "In a word, to have commerce only with England?" Reconſider the words themſelves, and it will require no comment to prove how inapplicable to them are theſe aſſertions. The clauſe complained of, having ſtated the admiſſion and the difficulty already mentioned, proceeds to ſay: "It is further agreed that whenever any ſuch articles, ſo becoming contraband according to the laws of nations, ſhall for that reaſon be ſeized, the ſame ſhall not be confiſcated, but the owners thereof ſhall be ſpeedily and completely indemnified."

It is too clear to admit of conteſtation, that this clauſe does not declare proviſions to be contraband, or admit of their ſeizure in any other

caſe than where, "according to the exiſting law of nations, they ſhould become contraband:" in ſuch caſe the right to ſeize them is not given by this article, but is admitted by France and by all the world to exiſt independent of treaty. In ſuch caſe they would have been ſeized had this ſtipulation never been entered into; and would have been confiſcated alſo. The only alteration, which is by the letter of the clauſe produced in the law of nations, is to exempt from confiſcation goods which under that law would have been ſubject to it.

But it has been ſuſpected to have an object and an operation in practice different from its letter. It has been ſuſpected to cover a deſign to admit ſubſtantially certain ptinciples, with reſpect to blockades, which in theory are denied.

Incapable of duplicity, America with the pride of conſcious integrity, repels this inſinuation, and courts an inveſtigation of the facts on which it is founded.

The government of the United States and that of Britain, having conſtrued the law of nations differently in this reſpect, each would have acted upon its own opinion of that law: the privateers of England would have ſeized as contraband any goods, deemed ſuch in their courts of admiralty; and the government of the United States would have reclaimed ſuch goods, and would have ſupported the demand in ſuch a manner as its own judgment dictated. This procedure is not changed. The right to make ſuch reclamation has not been relinquiſhed, nor has the legality of the ſeizure, in any other caſe than that of an attempt to enter a place actually inveſted, been in any degree admitted.

It is true, that the Britiſh government renewed the order concerning proviſions about the time of the ratification of this treaty: but it is not leſs true, that the government of the United States manifeſted a firm reſolution to ſubmit to no ſuch conſtruction, and remonſtrated ſo ſeriouſly againſt it as to produce a revocation of the order. Nor is this all: claims for proviſions ſeized in caſes of a mere proclamation-blockade have been actually made, and have been actually decided in favour of the claimants. The Britiſh government has acquieſced under ſuch deciſions by paying the ſums awarded. Theſe ſums were not limited to a reaſonable profit on the price of the commodity ſeized, but were regulated by its price at the port of deſtination, and conſequently the actual as well as avowed principle of ſuch deciſions was, that the goods ſeized had not become contraband "according to the exiſting law of nations."

The intention of the government then, and the practice under the article, are in direct oppoſition to theſe injurious ſuſpicions, the indulgence of which has produced ſuch pernicious effects. It is even believed that the deciſion on this ſubject, will be one ſtep towards the eſtabliſhment of that principle for which America has never ceaſed to contend. It is alſo believed, and has ever been believed, that the article objected to would have a neceſſary tendency to increaſe, and did in fact increaſe the quantity of proviſions imported from America into France and her colonies. The American commerce, being entirely in the hands of individuals, is conſequently conducted by them according to their own views of particular advantage: they will unqueſtionably endeavour to ſupply the higheſt market, unleſs reſtrained from doing ſo by other conſiderations which render it unadviſable to attempt ſuch a ſupply. In their calculations, the riſk of reaching the market is too important an item to be paſſed over or

forgotten. Every diminution of this risk adds to the number of those who will attempt the supply: and consequently a knowledge that the voyage, should it even fail by the seizure of the vessel, would yet be profitable, must increase the number of those who would make it.

It is plain then, that this article admits the seizure of provisions in no situation where they were not before seizable; and encourages their transportation to France and her colonies, by diminishing the risk of such transportation.

It is also complained of, that this treaty has not, "as all treaties do, pointed out particularly the cases of the effective blockade of a place," as alone forming an exception to the freedom of provisions.

Articles in a treaty can only be inserted by consent. The United States therefore can never be responsible for not having inserted an article to which the other contracting party would not assent. They may refuse to make any change in the existing state of things prejudicial to themselves or to other powers; and they have refused to make any such change. But it is not in their power to insert, as by common consent, an article, though merely declaratory of a principle which they considered as certainly existing, and which they mean to support, if such common consent be unattainable. All that can be done, in such a case, is to leave the principle unimpaired, reserving entirely the right to assert it. This has been done; the principle was left unimpaired, and has been since successfully asserted.

The United States are at all times truly solicitous to diminish as much as possible the list of contraband. It is their interest, in common with all other nations whose policy is peace, to enlarge, so far as they can be enlarged, the rights of neutrals. This interest is a sure guarantee for their using those means which they think calculated to effect the object, and which a just regard to their situation will permit. But they must be allowed to pursue the object in such a manner as may comport with that situation. While they surrender no actual right, in preserving which there is a common interest; while they violate no pre-existing engagement (and these they have not surrendered or violated) they must judge exclusively for themselves how far they will or ought to go in their efforts to acquire new rights, or establish new principles. When they surrender this privilege, they cease to be independent, and they will no longer deserve to be free. They will have surrendered into other hands the most sacred of depositsthe right of self-government; and instead of the approbation, they will merit the contempt of the world.

Those parts of the treaty between the United States and Britain, which have been selected by France as injurious to her, have now been examined. The undersigned are too well convinced that they in no degree justify the enmity they are alledged to have produced, not to rely on a candid reconsideration of them as a sure mean of removing the impressions they are supposed to have made.

Before this subject is entirely closed, one other objection will be noticed. The very formation of a commercial treaty with England seems to be reprobated as furnishing just cause of offence to France; and Mr. Adet has permitted himself to say: "It was a little matter only to allow the English to avail themselves of the advantages of our treaty: it was necessary to assure these to them by the aid of a contract, which

might ſerve at once as a reply to the claims of France, and as peremptory motives for refuſals; the true cauſe of which it was requiſite inceſſantly to diſguiſe to her under ſpecious pretexts. Such was the object of Mr. Jay's miſſion to London; ſuch was the object of a negociation enveloped from its origin in the ſhadow of myſtery, and covered with the veil of diſſimulation."

Paſſing over this extraordinary language, the underſigned, being only deſirous of producing accommodation by the exhibition of truth, will conſider the opinion which is obliquely hinted, and the fact which is directly averred.

The practice of forming commercial treaties is ſo univerſal among other nations, having any commercial intercourſe with each other, that it ſeems unneceſſary to diſcuſs their utility. The right to form theſe treaties has been ſo univerſally aſſerted and admitted, that it ſeems to be the inſeparable attribute of ſovereignty, to be queſtioned only by thoſe who queſtion the right of a nation to govern itſelf, and to be ceded only by thoſe who are prepared to cede their independence.

But the proſperity of the United States is, in a peculiar degree, promoted by external commerce. A people almoſt excluſively agricultural have not within themſelves a market for the ſurplus produce of their labour, or a ſufficient number and variety of articles of exchange to ſupply the wants of the cultivator: they cannot have an internal, which will compenſate for the loſs of an external commerce: they muſt ſearch abroad for manufactures, and for many other articles which contribute to the comfort and convenience of life, and they muſt ſearch abroad alſo for a market for that large portion of the productions of their ſoil, which cannot be conſumed at home. The policy of a nation thus circumſtanced, muſt ever be to encourage external commerce, and to open to itſelf every poſſible market for the diſpoſition of its ſuperfluities, and the ſupply of its wants. The commercial and manufacturing character and capacities of England muſt turn into that channel a conſiderable portion of the commerce of any nation under the circumſtances of the United States. It is a market too important and too valuable to be voluntarily cloſed; in conſequence, a conſiderable portion of their commerce has taken that direction, and a continual ſolicitude has been manifeſted to regulate and ſecure it by contract. To aboliſh this commerce, or to refuſe to give it permanence and ſecurity by fair and equal ſtipulations would be a ſacrifice which no nation ought to require, and which no nation ought to make. In forming her treaty of amity and commerce with the United States, France claimed no ſuch prerogative. That treaty declares the intention of the parties to be, "to fix in an equitable and permanent manner the rules which ought to be followed relative to the correſpondence and commerce, which the two parties deſire to eſtabliſh between their reſpective countries, ſtates, and ſubjects;" and that "they have judged that the ſaid end could not be better obtained than by taking for the baſis of their agreement the moſt perfect equality and reciprocity; and by carefully avoiding all thoſe burthenſome preferences, which are uſually ſources of debate, embarraſſment and diſcontent; by leaving alſo each party at liberty to make reſpecting commerce and navigation, thoſe interior regulations which it ſhall find moſt convenient to itſelf; and by founding the advantage of commerce ſolely upon reciprocal utility, and the juſt rules of free inter-

courſe; reſerving withal to each party the liberty of admitting at its pleaſure other nations to a participation of the ſame advantages." The treaty itſelf contains no ſtipulation in any degree contradictory to theſe declarations of the preamble, or which could ſuggeſt a ſuſpicion that under thoſe declarations was concealed a wiſh to abridge the ſovereignty of the United States with reſpect to treaties, or to controul their intereſts in regard to commerce. In forming a commercial treaty with Britain, therefore, in which no peculiar privilege is granted, the government of the United States believed itſelf to be tranſacting a buſineſs excluſively its own, which could give umbrage to none, and with which no other nation on earth would conſider itſelf as having a right to interfere. There exiſted conſequently no motive for concealing from or declaring to France, or any other power, that the negociations of Mr. Jay might or might not terminate in a commercial treaty. The declaration therefore was not made; nor is it uſual for nations about to enter into negociations, to proclaim to others the various objects to which thoſe negociations may poſſibly be directed. Such is not, nor has it ever been the practice of France. To ſuppoſe a neceſſity or a duty on the part of one government thus to proclaim all its views, or to conſult another with reſpect to its arrangements of its own affairs, is to imply a dependence, to which no government ought willingly to ſubmit. So far as the intereſts of France might be involved in the negociation, the inſtructions given to the negociator were promptly communicated. The miniſter of this republic was informed officially that Mr. Jay was inſtructed not to weaken the engagements of the United States to France. Further information was neither to have been required or expected; indeed, that which was given furniſhed reaſon to ſuppoſe, that one of the objects of the negociation with Great-Britain was a commercial treaty. Why then ſuch unneceſſary and unmerited ſarcaſms againſt a cautious and unoffending ally? Thoſe objects which ſhe purſued were ſuch as an independent nation might legitimately purſue, and ſuch as America never had diſſembled, and never deemed it neceſſary to diſſemble her wiſh to obtain. Why ſhould an effort be made to impreſs France with an opinion, that Mr. Jay was not authoriſed to negociate a commercial treaty with Britain, when the fixed opinion of America had ever been, that France could not be and ought not to be diſſatisfied with the formation of ſuch a treaty? Why ſhould the miniſter of France have been informed officially, that Mr. Jay was eſpecially inſtructed not to weaken the engagements of the United States to France, if it was intended to convince that miniſter, that his power did not extend to ſubjects in any degree connected with thoſe engagements? To what purpoſe ſhould the government of the United States have practiſed a deception deemed by itſelf totally unneceſſary, and which its utmoſt efforts could not long continue? It requires an equal degree of folly and vice to practice an uſeleſs fraud which muſt inevitably and immediately be detected, and the detection of which muſt expoſe its author to general infamy, as well as to the enmity of thoſe on whom the fraud had been practiſed. Theſe conſiderations ought to have produced ſome heſitation concerning the fact. The teſtimony in ſupport of it ought to have been very poſitive and very unexceptionable before it received implicit faith. It ſhould have been very clear that there was no miſtake, no miſunderſtanding concerning the information communicated, before the charge was made

in ſuch terms as the miniſter of France has been pleaſed to employ: but the teſtimony is believed to be ſatisfactory, that the government of the United States has not endeavoured to impreſs on France any opinion on this ſubject, which the fact of the caſe did not warrant. The declaration of Mr. Randolph, made July 8th, 1795, is full to this point. It is in theſe words: "I never could with truth have informed the French miniſter, that the miſſion, as ſet forth in the Preſident's meſſage to the Senate, contemplated only an adjuſtment of our complaints; if by this phraſe it be intended to exclude commercial arrangements. I could have no reaſon for ſaying ſo, ſince the French Republic could have had nothing to do with our commercial arrangements, if they did not derogate from her rights: it could have anſwered no purpoſe when ſo ſhort a time would develope the contrary—I never did inform the French miniſter as is above ſtated.

"The only official converſation, which I recollect with Mr. Fauchet upon this ſubject, was when I communicated to him, with the Preſident's permiſſion, that Mr. Jay was inſtructed not to weaken our engagements to France: neither then nor at any other time in official, or unofficial converſation, did I ever ſay to him that nothing of a commercial nature was contemplated, or that nothing but the controverſies under the old treaty and the ſpoliations were contemplated.

"Mr. Fauchet ſometime ago ſaid to me, that he underſtood from what I ſaid, that Mr. Jay was not authorized to treat of commercial matters. I told him that he miſunderſtood me, no letter has ever paſſed upon this ſubject."

If then, Mr. Randolph did give Mr. Fauchet the information contended for, it is plain that he never was authorized to do ſo; but the conſiderations already detailed render it infinitely more probable, that Mr. Fauchet has miſunderſtood Mr. Randolph, than that Mr. Randolph has miſinformed Mr. Fauchet.

The underſigned have taken, they truſt, a correct view of the leading and influential meaſures adopted by the government of the United States: they have endeavoured to ſtate with plainneſs and with candour the motives which have occaſioned the adoption of thoſe meaſures, and the operation they are believed to have. They have ſhewn, that if America is to be reproached with partialities, irreconcileable with her neutral ſituation, it is not by France that thoſe reproaches ought to be made. They have been induced to take this review by a hope, which they cannot relinquiſh without regret, that it may contribute to efface impreſſions which miſrepreſentation may have made, and to take from the intentions and conduct of the government they repreſent, that falſe colouring which unfriendly pencils have ſo profuſely beſtowed upon them. They are anxious ſtill to cheriſh the hope, that by expoſing frankly and ſincerely the ſentiments which have hitherto guided their nation, they may reſtore diſpoſitions on the part of France, compatible with the continuance of thoſe ſentiments.

Complaints have been made that in the application in particular caſes of thoſe general principles, which the neutral ſtation of the United States rendered indiſpenſible, inconveniencies and vexations which were unavoidable have been ſometimes ſuſtained. Theſe complaints have been ſeparately and fully diſcuſſed.

The undersigned persuade themselves, that the explanations which have been given respecting them, if not entirely satisfactory, have yet been such as to prove the good faith and upright intention which have never ceased to direct the conduct of the United States.

If notwithstanding this good faith and the purity of these intentions, the difficulty of their situation has in any case produced even an involuntary departure from those principles by which they professed to be guided, they are ready to consider that case and to repair any fault which may inadvertently have been committed. With these dispositions on their part, with this consciousness of having never ceased to merit the friendship and esteem of the French nation, with a conviction that a temperate and thorough view of the past cannot fail to remove prejudices not warranted facts, the United States have relied confidently on the justice of France for a discontinuance and reparation of those serious and heavy injuries, which have been accumulated on them.

Desirous of establishing, not the dependence of a weak on a powerful nation, but that real and cordial friendship, the willing and spontaneous offering of generous minds, which can only be lasting when evidenced to be mutual, and can only be preserved when bottomed on reciprocal justice, the undersigned will now represent with candour and frankness the well founded complaints with which they are charged.

These complaints consist :—

Of claims uncontroverted by the Government of France, but which remain unsatisfied, and,

Of claims founded on captures and confiscations, the illegality of which has not yet been admitted.

In the first class of cases are arranged ;

Firstly, Those whose property has been seized under the decree of the national convention of the 9th May 1793.

Secondly. Those who are entitled to compensation in consequence of the long detention of their vessels at Bourdeaux in the years 1793 and 1794,

Thirdly. The holders of bills and other evidences of debts due drawn by the Colonial Administrations in the West-Indies.

Fourthly, Those whose cargoes have been appropriated to public use without receiving therefor adequate payment ; and

Fifthly. Those who have supplied the government under contracts with its agents, which have not yet been complied with on the part of France.

These well founded claims of American citizens, thus originating in voluntary and important supplies, in the forcible seizure of valuable property, accompanied with promises of payment, and in injurious detentions, constitute a mass of debt which the justice and good faith of the French Government cannot refuse to provide for, and which is too considerable to be unnoticed by that of the United States. The undersigned are instructed to solicit your attention to this subject, and they would persuade themselves that they do not solicit in vain. So many circumstances concur to give force to the application, that they leave it to your government, in the confidence that no additional representations can be necessary.

They pass to complaints still more important for their amount, more interesting in their nature, and more serious in their consequences.

On the 14th Meſſidor, 4th year of the French Republic, one and indiviſible (July 2d 1796) the Executive Directory decreed, "That all neutral or allied powers ſhall without delay be notified that the flag of the French Republic will treat neutral veſſels, either as to confiſcation, as to ſearches or capture, in the ſame manner as they ſhall ſuffer the Engliſh to treat them." This decree, in any point of view in which it can be conſidered, could not fail to excite in the United States the moſt ſerious attention. It diſpenſes at once as they conceive with the moſt ſolemn obligations which compact can create, and conſequently aſſerts a right on the part of France, to recede at her diſcretion from any ſtipulations ſhe may have entered into. It has been demonſtrated that governments may by contract change, as between themſelves, the rules eſtabliſhed by the law of nations, and that ſuch contract becomes completely obligatory on the parties, though it can in no manner affect the rights of others; yet by this decree, allies with whom ſuch ſtipulations exiſt, are to be treated without regard to ſuch ſtipulations, in the ſame manner as they are treated by others, who are bound by a different rule. This as it reſpects the United States is the more unfriendly, becauſe a readineſs has been manifeſted on their part ſo to modify by conſent their treaty with France, as to reinſtate the rules eſtabliſhed by the law of nations.

The general terms too, in which this decree is conceived, threatened but too certainly the miſchiefs it has generated, and the abuſes which have been practiſed under it. Neutrals are to be treated as they ſhall permit the Engliſh to treat them. No rule extracted from the practice of England is laid down, which might govern the cruiſers of France, or inſtruct the veſſels of neutrals. No principles are ſtated, manifeſting the opinion entertained of the treatment received from England, which might enable a neutral to controvert that opinion, and to ſhew that the Engliſh were not permitted to treat its flag as was ſuppoſed by the government of France. To judge from the decree itſelf, from any information given concerning it, or from the practice under it, thoſe who were to be benefitted by its abuſe, were to decide in what manner it ſhould be executed; and the cruiſer who ſhould fall in with a valuable veſſel had only to conſult his own rapacity, in order to determine whether an Engliſh privateer, meeting a veſſel, under ſimilar circumſtances, would capture and bring her into port. Multiplied exceſſes, and accumulated vexations could not but have been apprehended from ſuch a decree, and the fact has realized every fear that was entertained concerning it. It has been conſtrued even in Europe to authorize the capture and condemnation of American veſſels, for the ſingle circumſtance of their being deſtined for a Britiſh port. At no period of the war has Britain undertaken to exerciſe ſuch a power. At no period of the war has ſhe aſſerted ſuch a right. It is a power which proſtrates every principle of national ſovereignty and to which no nation can ſubmit without relinquiſhing at the ſame time its beſt intereſts and ſacrificing its deareſt rights. This power has been exerciſed by France on the rich and unprotected commerce of an ally, on the preſumption that that ally was ſuſtaining the ſame injuries from Britain, at a time when it is believed that the depredations of that nation had ceaſed, and the principle of compenſating for them had been recognized.

In the Weſt-Indies ſimilar depredations have been experienced. On the 1ſt of Auguſt 1796, the ſpecial agents of the Executive Directory

to the Windward Iſlands, decreed, that all veſſels loaded with contraband, ſhould be ſeized and confiſcated for the benefit of the captors.

On the 7th Frimare, 5th year of the French Republic, one and indiviſible (27th November, 1796) the commiſſion, delegated by the French Republic to the Leeward Iſlands, reſolved, that the captains of French national veſſels and privateers are authorized to ſtop and bring into the ports of the colony, American veſſels bound to Engliſh ports, or coming from the ſaid ports.

On the nineteenth Pluvioſe, 5th year of the French Republic, one and indiviſible, (February 1ſt, 1797) Victor Hugues and Lebas, the ſpecial agents of the Executive Directory to the Windward Iſlands, paſſed a decree, ſubjecting to capture and confiſcation neutral veſſels deſtined for the Windward and Leeward Iſlands of America, delivered up to the Engliſh, and occupied and defended by the Emigrants. Theſe ports are ſaid to be, Martinico, St. Lucie, Tobago, Demerara, Berbice, Eſſequibo, Port-au-Prince, St. Marks, L'Archaye, and Jeremie. The decree alſo ſubjects to capture all veſſels which have cleared out for the Weſt-Indies *generally*.

The underſigned will not detain you, Citizen Miniſter, for the purpoſe of proving how directly and openly theſe decrees violate both the law of nations, and the treaty between France and the United States.

They have been executed on the officers and crews of the captured veſſels, in a manner by no means calculated to mitigate their rigor.

The decree of the fourteenth of Meſſidor, was ſoon followed by another which has ſpared but little of the American commerce, except what has fortunately eſcaped the purſuit of the cruiſers of France. On the twelfth Ventoſe, 5th year, (2d March, 1797) the Executive Directory, conſidering the treaty of amity, commerce and navigation, concluded at London, the 19th of November, 1794, between the ſaid United States and England, as containing conceſſions of privileges to Britain which, under the treaty of February, 1778, might be enjoyed by this Republic alſo, proceeds to modify the treaty between France and the United States, by declaring enemies goods, in American bottoms, liable to capture and confiſcation; by enlarging the liſt of contraband; and by ſubjecting to puniſhment, as a pirate, any American citizen holding a commiſſion given by the enemies of France, as well as every ſeaman of that nation, making a part of the crew of enemies ſhips. The decree next proceeds to exact from Americans, papers which had been made neceſſary to eſtabliſh the neutrality of foreign veſſels, generally, by the ordinance of the 26th of July, 1778, but which had never been conſidered as applying to the United States, which required papers their veſſels could not be ſuppoſed to poſſeſs, and which the treaty between the two nations was ſuppoſed to have rendered unneceſſary.

The baſis taken by the Executive Directory, on which to reſt their modification of the treaty of the 6th of February, 1778, is, that by the treaty of the nineteenth of November, 1794, *particular favours in reſpect of commerce and navigation have been granted to England.*

It has been demonſtrated, that no particular favours, in reſpect of commerce or navigation, have been granted to England. That treaty has been ſhewn only to recognize, regulate and moderate the exerciſe of rights before poſſeſſed, and before openly acknowledged to be poſſeſſed —rights which France and America had reciprocally ceded to each other,

without requiring, as a condition of the ceſſion, that either ſhould compel England to form a ſimilar ſtipulation.

But to admit for a moment that the treaty with England might be conſidered as ſtipulating favors not before poſſeſſed; yet the American government did not ſo underſtand that treaty, and had manifeſted a diſpoſition to modify, by common conſent, its relations with this republic, in ſuch manner as to reinſtate a rule, which has been voluntarily changed. It cannot but be ſincerely regretted, becauſe it ſeemed to indicate an unfriendly temper, that France has deemed it more eligible to eſtabliſh by force, in oppoſition to her treaty, a principle which ſhe deemed convenient, than to fix that principle on the fair baſis of mutual and amicable agreement.

But the clauſe, under which theſe modifications are juſtified, is in theſe words: "The moſt Chriſtian King and the United States engage mutually not to grant any particular favor to other nations, in reſpect of commerce and navigation, which ſhall not immediately become common to the other party, who ſhall enjoy the ſame favor freely, if the conceſſion was freely made, or on allowing the ſame compenſation, if the conceſſion was conditional." If theſe ſtipulations unequivocally amounted to the grant of favors, ſtill the grant is not gratuitous. The conceſſions on the part of the United States are made on condition of ſimilar conceſſions on the part of Britain. If, therefore, France chuſes to conſider them as modifications of the treaty of 1778, ſhe can only do it by granting the reciprocal condition: on this ſuppoſition, ſhe has either of the rules at her election, but ſhe cannot vary from the firſt without a compact on her part to grant the reciprocal ſtipulation. Such a compact is in the nature of a national treaty.

But the rules laid down in the decree of the 12th Ventoſe, 5th year (March 2, 1797) as founded on the 17th, 18th, and 21ſt articles of the treaty of the 19th November, 1794, are materially variant from thoſe articles. To demonſtrate this, it is only neceſſary to contraſt the rules of the decree, with the articles of the treaty on which thoſe rules are ſaid to be founded.

Articles of the Treaty of the nineteenth of November, 1794, as quoted by the Directory.

ARTICLE 17.

It is agreed, that in all caſes where veſſels ſhall be captured or detained *on juſt ſuſpicion* of having on board enemies' property, or of carrying to the enemy any of the articles which are contraband of war, the ſaid veſſels ſhall be brought to the neareſt or moſt convenient port; and *if any property of an enemy ſhould be found on board ſuch veſſel, that part only which belongs to the enemy ſhall be made prize*, and the veſſel ſhall be at liberty to proceed with the remainder without any impediment. And it is agreed,

Rules eſtabliſhed by the arrêté of the Directory.

RULE 1.

According to the ſeventeenth article of the treaty of London, of the nineteenth of November, 1794, all merchandize of the enemy, or *merchandize not ſufficiently proved to be neutral*, laden under the American flag, ſhall be confiſcated, but the veſſel on board of which it ſhall be found, ſhall be releaſed and reſtored to the owner. It is enjoined on the commiſſaries of the Executive Directory, to accelerate, by all the means in their power, the deciſion of conteſts which ſhall ariſe either

that all proper meaſures ſhall be taken to prevent delay in deciding the caſes of ſhips or cargoes ſo brought for adjudication; and in the payment or recovery of any indemnification adjudged or agreed to be paid to the owners or maſters of ſuch ſhips.

According to the article, when *on juſt ſuſpicion* of having on board enemy's property, or of carrying to the enemy contraband of war, a veſſel ſhall be brought into port, that part *only which belongs to the enemy* ſhall be made prize, according to the article, then the fact whether the property does or does not belong to an enemy is to be fairly tried. The party who would eſtabliſh the fact, muſt prove it. The captor muſt ſhow the *juſtice* of the ſuſpicion on which the capture or detention was founded. The burthen of the proof reſts on him. If in truth and in fact the property does not belong to an enemy, or is not proved to belong to an enemy, it muſt be diſcharged. But the rule purſues a different courſe. The rule declares, that merchandize of the enemy, or *not ſufficiently proved to be neutral*, laden under the American flag, ſhall be confiſcated. The burthen of the proof is ſhifted from the captor to the captured. The queſtion to be tried is not ſolely whether the merchandize be in fact the property of an enemy, but alſo whether it be *ſufficiently proved to be neutral*. The ſufficiency of this proof is to be aſcertained, not by general and ſatisfactory teſtimony, not by the great principles of truth, and the common underſtanding of mankind, but by the exhibition of certain papers demandable at the will of one of the parties, and not in the poſſeſſion of the other. This may be a regulation which France chooſes to eſtabliſh; but certainly it is a regulation, eſſentially variant from the article it profeſſes to reſemble.

ARTICLE 18.

In order to regulate what is in future to be eſteemed contraband of war, it is agreed, that under the ſaid denomination ſhall be compriſed all arms and implements ſerving for the purpoſes of war, by land or by ſea; as cannon, muſkets, mortars, petards, bombs, grenades, carcaſſes, ſauciſſes, carriages for cannon, muſket reſts, bandoliers, gunpowder, matches, ſalt petre, ball, pikes, ſwords, head pieces, cuiraſſes, halberts, lances, javelins, horſe furniture, holſters, belts, and generally all other implements of war; as alſo timber for ſhip-building, tar, or roſin, copper in ſheets, ſails, hemp and cordage, and generally whatever may ſerve *directly to the equipment of veſſels*, unwrought iron, and fir plank only excepted.

on the validity of the prize-cargo, or on the freight and demurrage.

RULE 2.

According to the 18th article of the treaty of London, of the nineteenth of November, 1794, to the articles declared contraband by the 24th article of the treaty of the 6th of February, 1778, are added the following articles:

Timber for ſhip-building, pitch, tar and roſin, copper in ſheets, ſails, hemp and cordage, and every thing which ſerves *directly* or *indirectly* for the armament and equipment of veſſels, unwrought iron and fir planks excepted. Theſe ſeveral articles ſhall be confiſcated whenever they ſhall be deſtined or attempted to be carried to the enemy.

The immenſe number of articles, which may ſerve indirectly for the armament and equipment of veſſels, are made contraband by the rule of the Directory, though they are not ſo by the article it profeſſes to cite.

ARTICLE 21.

It is likewiſe agreed, that the ſubjects and citizens of the two nations ſhall not do any acts of hoſtility or violence againſt each other, nor accept commiſſions or inſtructions ſo to act from any foreign prince or ſtate, enemies to the party; nor ſhall the enemies of one of the parties be permitted to invite, or endeavour to inliſt in their military ſervice any of the ſubjects or citizens of the other party; and the laws againſt all ſuch offences and aggreſſion, ſhall be punctually executed. And if any ſubject or citizen of the ſaid parties reſpectively, ſhall accept any foreign commiſſion or letters of marque, for arming any veſſel to act as a privateer againſt the other party, it is hereby declared to be lawful for the ſaid party to treat and puniſh the ſaid ſubject or citizen having ſuch commiſſion or letters of marque as a pirate.

The government of the United States has never formed a treaty comprehending an article in any degree ſimilar to this rule. It has never aſſented to ſuch ſtipulations as they relate to its own citizens, or required them, as they relate to thoſe of other powers. The difference between the article and the rule requires no comment. Nor will the rule be commented on. The undersigned will only obſerve, that the article is by no means uncommon, but is to be found in moſt treaties of amity and commerce. The 21ſt article of the treaty with France, the 19th of the treaty with the United Provinces, the 23d of the treaty with Sweden, and the 20th article of the treaty with Pruſſia, contain ſimilar ſtipulations. It is not eaſy to conceive a reaſon why it ſhould not alſo be inſerted in a treaty with England, or why its inſertion ſhould give offence to France.

But the fourth rule of the decree is, in its operation, the moſt extenſive and the moſt ſeriouſly deſtructive. That rule declares, that "conformably to the law of the 14th of February, 1793, the regulations of the 21ſt of October, 1744, and of the 26th of July, 1778, concerning the manner of proving the property of neutral ſhips and merchandize, ſhall be executed according to their form and tenor.

"Every American ſhip ſhall, therefore, be a good prize, which ſhall not have on board a liſt of the crew in proper form, ſuch as is preſcribed by the model annexed to the treaty of the 6th of February, 1778, the obſervance of which is required by the 25th and 27th articles of the ſame treaty."

RULE 3.

According to the 21ſt article of the treaty of London, of the 19th of November, 1794, every individual known to be an American, who ſhall hold a commiſſion given by the enemies of France, as well as every ſeaman of that nation making a part of the crew of enemies ſhips, ſhall, by that act, be declared a pirate, and treated as ſuch, without being allowed, in any caſe, to alledge that he was forced to do it by violence, menaces or otherwiſe.

This rule requires, that American ſhips and merchandize, in order to prove the property to be American, ſhall exhibit certain papers, and eſpecially a rôle d'équipage, which are required of neutrals generally by the particular marine ordinances of France, recited in the decree of the Directory. But France and America have entered into a ſolemn treaty, one object of which was to ſecure the veſſels of either party, which might be at peace, from the cruiſers of the other which might be engaged in war. To effect this object, the contracting parties have not referred each other to the particular ſtatutes or ordinances of either government, but have enumerated the papers which ſhould be deemed ſufficient. They have done more: They have preſcribed the very form of the paſſport which ſhould eſtabliſh the neutrality of the veſſel, and prevent her being diverted from her courſe. The 25th and 27th articles of the treaty between the two nations, which are quoted by the Directory, and are conſidered by the undersigned as concluſive on this ſubject, are in theſe words:—

ARTICLE 25.

"To the end that all manner of diſſentions and quarrels may be avoided and prevented on the one ſide and on the other, it is agreed, that in caſe either of the parties hereto ſhould be engaged in war, the ſhips and veſſels belonging to the ſubjects or people of the other ally muſt be furniſhed with ſea-letters or paſſports, expreſſing the name, property and bulk of the ſhip, as alſo the name and place of habitation of the maſter or commander of the ſaid ſhip, that it may appear thereby, that the ſaid ſhip really and truly belongs to the ſubjects of one of the parties, which paſſport ſhall be made out and granted according to the form annexed to this treaty; and they ſhall likewiſe be recalled every year, that is, if the ſhip happens to return home in the ſpace of a year. It is likewiſe agreed, that ſuch ſhips, being laden, are to be provided not only with paſſports, as above mentioned, but alſo with certificates containing the ſeveral particulars of the cargo, the place whence the ſhip ſailed, and whither ſhe is bound, that ſo it may be known whether any forbidden or contraband goods be on board the ſame; which certificates ſhall be made out by the officers of the place, whence the ſhip ſet ſail, in the accuſtomed form; and if any one ſhall think it fit or adviſeable to expreſs in the ſaid certificates the perſon to whom the goods on board belong, he may freely do ſo."

ARTICLE 27.

"If the ſhips of the ſaid ſubjects, people or inhabitants of either of the parties, ſhall be met with either ſailing along the coaſts, or on the high ſeas, by any ſhip of war of the other, or by any privateers, the ſaid ſhips of war or privateers, for the avoiding of any diſorder, ſhall remain out of cannon ſhot, and may ſend their boats aboard the merchant ſhip, which they ſhall ſo meet with, and may enter her to the number of two or three men only, to whom the maſter or commander of ſuch ſhip or veſſel ſhall exhibit his paſſport, concerning the property of the ſhip, made out according to the form inſerted in this preſent treaty; and the ſhip, when ſhe ſhall have ſhewed ſuch paſſport, ſhall be free and at liberty to purſue her voyage, ſo as it ſhall not be lawful to moleſt or ſearch her in any manner, or to give her chaſe, or force her to quit her intended courſe."

It will be admitted, that the two nations poſſeſs the power of agreeing, that any paper, in any form, ſhall be the ſole document, demandable by

either from the other, to prove the property of a veſſel and cargo. It will alſo be admitted, that an agreement ſo made becomes the law of the parties, which muſt retain its obligation.

Examine then the words of the compact, and determine by fair conſtruction what will ſatisfy them.

The 25th article ſtates ſubſtantially the contents of a paper, which is termed a ſea-letter or paſſport, and which "it is agreed that in caſe either of the parties ſhould be engaged in war, the ſhips and veſſels belonging to the ſubjects or people of the other ally muſt be furniſhed with." To what purpoſe are they to be furniſhed with this ſea-letter or paſſport? The article anſwers, "To the end that all manner of diſſentions and quarrels may be avoided and prevented, on one ſide and the other;" "That it may appear thereby that the ſhip really and truly belongs to the ſubjects of one of the parties."

But how will the paſſport "prevent and avoid all manner of diſſentions and quarrels on one ſide or the other," if ordinances, both prior and ſubſequent to the treaty, are to be underſtood as controlling it, and as requiring other papers not contemplated in the public agreement of the two nations? How is it to appear from the paſſport, "that the ſhip really and truly belongs to the ſubjects of one of the parties," if it is denied that the paſſport is evidence of that fact, and contended that other papers, not alluded to in the treaty, ſhall be adduced to prove it?

But the 27th article is ſtill more explicit. It declares, that when a merchant ſhip of one of the parties ſhall be viſited by the ſhips of war or privateers of the other, "the commander of ſuch ſhip or veſſel ſhall exhibit his paſſport, concerning the property of the ſhip, made out according to the form inſerted in the preſent treaty, and the ſhip, when ſhe ſhall have ſhewed ſuch paſſport, ſhall be free and at liberty to purſue her voyage, ſo as it ſhall not be lawful to moleſt or ſearch her in any manner, or to give her chaſe, or force her to quit her intended courſe." What is it that ſhall prove the property of the veſſel? The treaty anſwers, the paſſport. But the decree of the Directory requires in addition certain other papers, perfectly diſtinct from the paſſport. The treaty declares, that "the ſhip when ſhe ſhall have ſhewed (not the rôle d'equipage, or any other paper, required by the particular ordinances of either nation, but) "ſuch paſſport, ſhall be free and at liberty to purſue her voyage, ſo as it ſhall not be lawful to moleſt or ſearch her in any manner, or to give her chaſe, or force her to quit her intended courſe." Yet the veſſels of America, after exhibiting "ſuch paſſport," are not "free and at liberty to purſue their voyage;" they are "moleſted;" they are "chaſed;" they are "forced to quit their intended courſe;" they are captured and confiſcated as hoſtile property."

It is alledged, that the form of the paſſport, which is annexed to the treaty, manifeſts that certain acts were to be performed by the perſon to whom the paſſport is delivered, and that ſuch perſon ought to prove the performance of thoſe acts.

But the treaty, far from requiring ſuch proof, abſolutely diſpenſes with it. The treaty declares, that the paſſport ſhall itſelf evidence the property of the veſſel, and ſecure it from moleſtation of any ſort. By conſent of the parties then, the paſſport is evidence of all that either party can require from the other. Neither the right to give ſuch conſent, or the obligation of a compact formed upon it, can, as is conceived, ever

be denied, nor can the form of the paſſport, whatever it may be, change the compact.

But let the words of the model be examined. They are: " A tous ceux qui ces préſentes verront: ſoit notoire que faculté et permiſſion a été accordée à maitre ou commandant du navire appellé de la ville de de la capacité de tonneaux ou environ, ſe trouvant préſentement dans le port de qu' après que ſon navire a ete viſité et avant ſon depart, il prêtera ſerment entre les mains des officiers de la marine, qui le dit navire appartient à un ou pluſieurs ſujets de dont l'acte ſera mis à la fin des préſentes; de même qu'il gardera les ordonnances et reglemens maritimes, et remettra une liſte ſignée et confirmée par temoins, contenant les noms et ſurnoms, les lieux de naiſſance, et la demeure des perſonnes compoſant l'équipage de ſon navire, et de tous ceux qui embarqueront, leſquels il ne recevra pas à bord ſans connoiſſance et permiſſion des officiers de marine; et dans chaque port ou hâvre, il montrera la préſente permiſſion aux officiers et juges de marine."

It is material to obſerve, that the model requires the oath concerning the property of the veſſel to be annexed to the paſſport, but does not require any other certificate, or the annexation of any paper whatever. Why this difference? It is a ſolemn proof of that for which the articles ſtipulates, and therefore the model expreſſes that the evidence of this fact ſhall be annexed, but it does not require the production of the evidence of any other fact.

It ſeems then to be demonſtrated, that the ſea-letter or paſſport, a model of which is annexed to the treaty, is, by ſolemn agreement, to be received by each party as concluſive teſtimony, that the veſſel producing ſuch paſſport is the property of a citizen of the other, and is conſequently to continue her voyage without moleſtation or hindrance.

But let it be ſuppoſed, that the treaty on this ſubject was leſs concluſive, and that its ſtipulations had been ambiguouſly expreſſed; yet it is certain, that it has been uniformly underſtood by both parties, as the underſigned have expounded it, and that neither France nor the United States, previous to the decree complained of, conſidered the veſſels of either nation, producing the paſſport agreed on, as liable to capture for want of a rôle d'équipage.

For more than four years after her treaty with the United States, France was engaged in a war with Britain, and in the courſe of that time it was never ſuggeſted, that a rôle d'équipage was neceſſary for the protection of an American veſſel. It does not weaken the argument that the United States were alſo parties to the war. The principle aſſumed is, that without the production of the papers required by the decree, the veſſel does not appear to be, and cannot be conſidered as American property. If this principle be correct, it would not ceaſe to apply, becauſe the United States were engaged in the war. Was America even engaged in the war on the part of France, a Britiſh veſſel carrying American colours would not be ſecured by the flag ſhe bore. It would be neceſſary to prove by her papers, or other admiſſible teſtimony, that the veſſel was American property. If this fact cannot appear without a rôle d'équipage while the United States are at peace, neither could it appear without the ſame evidence if the United States were parties to the war.

About four years of the preſent war had alſo elapſed before this con-

ſtruction of the treaty, at the ſame time ſo wonderful and ſo ruinous, had diſcloſed itſelf. In the courſe of that time the ports of France were filled with the veſſels of the United States. Very many of them ſailed under contracts made for the government itſelf by its miniſter in Philadelphia. No one of them poſſeſſed a rôle d'équipage; no one of them was conſidered on that account as being liable to condemnation. Indeed, in ſome inſtances, veſſels have been captured and diſcharged although this paper was not among thoſe belonging to the ſhip.

Such a long courſe of practice appears to have evidenced unequivocally the ſenſe of France on this ſubject.

It is too apparent to be queſtioned for a moment, that on the part of the United States no ſuſpicion had ever been entertained, that ſuch a paper could have been required. A rôle d'équipage could have been obtained with as much facility as that paſſport for which the treaty ſtipulates. Could it have been imagined that American veſſels incurred the poſſible hazard of being retarded only one day in a voyage for want of ſuch paper, it would in every inſtance have been ſupplied. No veſſel would have ſailed without it.

Your own mind, Citizen Miniſter, will ſuggeſt to you, with irreſiſtible force, the extreme hardſhip of thus putting a new conſtruction on a long exiſting contract, or of giving a new and unexpected extenſion to ancient municipal regulations, and of condemning thereby veſſels taken on the high ſeas for want of a paper not known to be required, when they ſailed out of port. If a rôle d'équipage was really conſidered by France as neceſſary evidence of any fact, the eſtabliſhment of which was deemed eſſential, common uſage, and thoſe plain principles of juſtice which all nations ſhould reſpect, indiſpenſibly require that the regulation ſhould firſt be made known to a neutral and friendly nation by other means than by the capture and confiſcation of its property. If this meaſure had been announced to the government of the United States, before it had been put in practice, and American veſſels had ſailed without a rôle d'équipage, they would have taken upon themſelves the hazard of ſuch a procedure. But in a moment, when the ocean is covered with peaceful merchantmen, purſuing a juſt and lawful commerce, to bring into ſudden operation a meaſure which had never before been applied to them, which had for ſo many years ſlept unheard of, and by the force of this regulation, to confiſcate unguarded property which had been truſted to the ſeas, under the faith of ſolemn and exiſting treaties, and without a conjecture that this, more than any other formula, would have been required, is to impoſe on unoffending individuals a ruin from which no wiſe precautions, no human foreſight could poſſibly have protected them.

On this ſubject then the underſigned appeal with confidence to the juſtice and equity of the French government.

But could it be conceded for a moment, that the Executive Directory might rightfully modify the treaty of France with the United States, by that of the United States with Britian, and might rightfully require a rôle d'équipage in order to eſtabliſh the neutrality of a veſſel, for want of which the veſſel might be confiſcated, yet, the cargo being proved to be neutral, ought to be ſafe.

According to the law of nations, the goods of an enemy found on board the ſhip of a friend, are liable to capture, and the goods of a

friend found on board the ſhip of an enemy are ſafe. The United States and France have conſented to change this rule as between themſelves. They have agreed, that the goods of an enemy found on board the veſſels of either party ſhall be ſafe, and that the goods of either found on board the veſſel of an enemy ſhall be liable to capture. The one part of this rule is in conſequence of and dependent on the other. The one part cannot on any principle of juſtice be abandoned while the other is maintained.

In their treaty with England the United States retain unchanged the principle of the law of nations. If France modifies her treaty in this reſpect by that of England, ſhe ought to take the principle entire. If in conformity to the treaty between the United States and England, France claims the right of taking enemies property found on board an American ſhip, then, in conformity with that treaty alſo, France ought to ſpare American property found on board an enemy's ſhip. If, therefore, this extraordinary poſition could be maintained, that an American ſhip without a rôle d'équipage becomes the ſhip of an enemy, ſtill the cargo, being proved to be the property of a friend, ought, on the principle of modifying the treaty between the two nations by that with England, to have been reſtored to the owners.

The reſult of theſe regulations has been the moſt extenſive and univerſal devaſtation of the American commerce. Not only veſſels bound to and from the enemies of France, but veſſels bound to and from her allies, and to and from her own ports have been ſeized and confiſcated.

The inevitable conſequence has been, that direct commerce between the two nations is almoſt annihilated, and that the property of American citizens has been taken to a much larger amount than would have been poſſible in a ſtate of actual war.

Yet the government of the United States, wiſhing, if it be poſſible, to avoid even defenſive meaſures, has ſought aſſiduouſly and unremittingly, though hitherto without ſucceſs, for ſuch peaceful and amicable explanations as might do away exiſting animoſities, and reſtore between the two Republics that harmony which it ſo truly deſires.

America has accuſtomed herſelf to perceive in France only the ally and the friend. Conſulting the feelings of her own boſom, ſhe has believed that between Republics an elevated and refined friendſhip could exiſt, and that free nations were capable of maintaining for each other a real and permanent affection. If this pleaſing theory, erected with ſo much care and viewed with ſo much delight, has been impaired by experience, yet the hope continues to be cheriſhed that this circumſtance does not neceſſarily involve the oppoſite extreme. It is believed that there exiſts no ſufficient cauſe for ſolid and permanent enmity between France and the United States, but that on the contrary the intereſts of both would be promoted by that friendly intercourſe, which a reciprocal obſervance of the great and immutable principles of juſtice would certainly eſtabliſh and can alone preſerve. Under this impreſſion America reſiſts the opinion that the preſent ſtate of things has grown out of a digeſted ſyſtem to which France deſigns to adhere. She wiſhes and ſhe endeavours to perſuade herſelf that temporary cauſes, which too often produce effects a ſound and juſt policy muſt reprobate, connected with a miſconſtruction of the conduct of her government, as well as of the motives on which it has acted, may have occaſioned thoſe very ſerious aggreſſions of which ſhe complains. She recedes therefore, even under the preſſure of theſe aggreſſions, ſlowly and with difficulty from the attachments ſhe has formed. So intertwined with every ligament of her heart have been the chords

of affection which bound her to France; that only repeated and continued acts of hoſtility can tear them aſunder.

The government of the United States, therefore, ſtill ſearches the means of terminating peacefully, and in a manner which ought to be mutually ſatisfactory, the calamities of the moment, and of averting the ſtill greater calamities which may be reſerved for the future. Not even the diſcouraging and unuſual events which had preceded the preſent effort to negociate could deter that government from repeating its endeavours for the preſervation of amity and peace. Three citizens of the United States have been deputed as Envoys Extraordinary and Miniſters Plenipotentiary to the French Republic. Their inſtructions authorize and direct them to review the exiſting treaties between the two nations, and to remove by all proper means, the inequalities which have grown out of the ſtipulations of thoſe treaties, in conſequence of the refuſal of England to adopt the principles they contain. They are alſo directed to give fair and complete explanations of the conduct of the government they repreſent; to ſtate fully and truly the heavy injuries which their fellow citizens have ſuſtained; and to aſk from the equity of a great and magnanimous Republic that compenſation for thoſe injuries, which, we flatter ourſelves, their juſtice will not refuſe and their liberal policy will not heſitate to give.

Bringing with them the temper of their government and country, ſearching only for the means of effecting the objects of their miſſion, they have permitted no perſonal conſiderations to influence their conduct, but have waited under circumſtances beyond meaſure embarraſſing and unpleaſant, with that reſpect which the American government has ſo uniformly paid to that of France, for permiſſion to lay before you, citizen miniſter, theſe important communications with which they have been charged.

Perceiving no probability of being allowed to enter, in the uſual forms, on thoſe diſcuſſions which might tend to reſtore harmony between the two Republics, they have deemed it moſt adviſeable, even under the circumſtances of informality which attend the meaſure, to addreſs to your government, through you, this candid review of the conduct, and this true repreſentation of the ſentiments and wiſhes of the government of the United States. They pray that it may be received in the temper with which it is written, and conſidered as an additional effort, growing out of a diſpoſition common to the government and people of America, to cultivate and reſtore, if it be poſſible, harmony between the two republics. If, citizen miniſter, there remains a hope that theſe deſirable objects can be effected by any means which the United States have authorized, the underſigned will ſtill ſolicit and will ſtill reſpectfully attend the developement of thoſe means.

If on the contrary no ſuch hope remains, they have only to pray that their return to their own country may be facilitated; and they will leave France with the moſt deep-felt regret that neither the real and ſincere friendſhip, which the government of the United States has ſo uniformly and unequivocally diſplayed for this great Republic, nor its continued efforts to demonſtrate the purity of its conduct and intentions, can protect its citizens, or preſerve them from the calamities which they have ſought by a juſt and upright conduct to avert.

The undersigned pray you, Citizen Minister, to accept the assurance of their perfect respect and consideration.

(Signed)
CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

Paris, January 27th, 1798, in the 22d year of American Independence.

Translated extract from the Bulletin des Lois, No. 178, printed at Paris, and enclosed with the quadruplicate of the Envoys' letter, No. 6.

Law relative to vessels laden with English merchandize, of the 29th Nivose, 6th year, [18th Jan. 1796.]

The Council of Ancients, adopting the reasons for the declaration of urgency, which precedes the resolution herein after contained, approves the act of urgency.

Here follows the tenor of the declaration of urgency, and of the resolution of the 22d Nivose, [11th Jan. 1798.]

The Council of Five Hundred, after having heard the report of a Special Committee upon the message of the Executive Directory of the 15th Nivose [4th January] relative to English merchandize;

Considering, that the interest of the Republic demands the most prompt measures against all vessels which may be loaded therewith;

Declares, that there is urgency.

The Council, after having declared the urgency, resolves as follows:

ARTICLE I.

The character of vessels, relative to their quality of neuter or enemy, shall be determined by their cargo; in consequence, every vessel found at sea, loaded in whole or in part with merchandize the production of England or of her possessions, shall be declared good prize, whoever the owner of these goods or merchandize may be.

ARTICLE II.

Every foreign vessel which, in the course of her voyage, shall have entered into an English port, shall not be admitted into a port of the French Republic, except in case of necessity; in which case she shall be bound to depart from the said port as soon as the causes of her entry shall have ceased.

ARTICLE III.

The present resolution shall be printed.

(Signed)
BOULAY (of la Meurthe) President,
GUILLEMARDET,
ROEMERS, } Secretaries.

After a ſecond reading, the Council of Ancients APPROVES the above reſolution. The 29th of Nivoſe, ſixth year of the French Republic [18th January, 1798.]

(Signed)

MARRAGON, Preſident.
ET. LAVEAUX,
KAUFFMANN,
MENUAU,
MERIC,
} Secretaries.

The Executive Directory orders, that the above law ſhall be printed, executed, and that it ſhall be ſealed with the ſeal of the Republic.

Done at the National Palace of the Executive Directory, the 29th Nivoſe, ſixth year of the French Republic, one and indiviſible. [18th January, 1798.]

For a true copy:

(Signed)

P. BARRAS, Preſident.

By the Executive Directory,

The Secretary-General, LAGARDE.

And ſealed with the ſeal of the Republic.

MESSAGE *from the* PRESIDENT *to* CONGRESS.

Gentlemen of the Senate, and
Gentlemen of the Houſe of Repreſentatives,

I NOW tranſmit to both Houſes, the Communications from our Envoys at Paris, received ſince the laſt, which have been preſented by me to Congreſs.

JOHN ADAMS.

UNITED STATES,
June 5th, 1798.
}

No. 7.

Paris, March 9th, 1798.

DEAR SIR,

AGREEABLY to what we repreſented to you in our No. 6. we prepared a letter to the Miniſter of Foreign Affairs, on the ſubject of the late law authorizing the capture of neutral veſſels, on board of which any productions of Great Britain or its poſſeſſions ſhould be laden, ſhewing how incompatible ſuch law was with the rights of neutral nations and the treaty between France and America, its direct tendency to deſtroy the remaining commerce of our country, and the particular hardſhips to which it would ſubject the agricultural as well as commercial intereſts

of our countrymen, from the peculiar ſituation of the United States. We added, that under exiſting circumſtances, we could no longer reſiſt the conviction that the demands of France rendered it entirely impracticable to effect the objects of our miſſion; and that not being permanent Miniſters, but Envoys Extraordinary, with full power for particular purpoſes, we deemed it improper to remain longer in France after the impoſſibility of effecting thoſe purpoſes had been demonſtrated. Before however we took this meaſure and explicitly demanded our paſſports, we deemed it expedient to deſire Major Rutledge to call on Mr. Talleyrand, on the 19th ultimo, to know if he had any communication to make to us in conſequence of our letter, dated the 17th and delivered the 31ſt of January. To this Mr. Talleyrand replied, that he had no anſwer to make, as the Directory had not taken any order on the ſubject, and when they did, he would inform us of it. Still being anxious to hear explicitly from Mr. Talleyrand himſelf, before we ſent our final letter, whether there were no means, within our powers, of accommodating our differences with France, on juſt and reaſonable grounds, we wrote to him on the 27th of February, ſoliciting a perſonal interview on the ſubject of our miſſion; he appointed the 2d of March following. You will find in the exhibit A, herewith enclоſed, what paſſed on that occaſion. On the 4th inſtant we requeſted another interview. We have detailed in the latter part of the ſame exhibit, for your information, the ſubſtance of that converſation. From theſe accounts you may obſerve that the views of France with regard to us, are not eſſentially changed, ſince our communications with its unofficial agents in October laſt.

We have the honor to be,
With great reſpect,
Your moſt obedient humble ſervants,
CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

Col. PICKERING, *Secretary of the United States.*

(A.)

March the 2d.

At three o'clock we waited on Mr. Talleyrand, and were almoſt immediately introduced to him. General Pinckney commenced the converſation by ſaying, that our government and ourſelves were extremely anxious to remove the ſubſiſting difference between the two Republics; that we had received many propoſitions through Mr. Y. to which we had found it impracticable to accede; and that we had now waited on him for the purpoſe of enquiring whether other means might not be deviſed which would effect ſo deſirable an object. The miniſter replied, that without doubt, the Directory wiſhed very ſincerely on our arrival to ſee a ſolid friendſhip eſtabliſhed between France and the United States, and had manifeſted this diſpoſition by the readineſs with which orders for our paſſports were given. That the Directory had been extremely wounded by the laſt ſpeech of General Waſhington, made to Congreſs when about to quit the office of Preſident of the United States; and by the firſt and laſt ſpeech of Mr. Adams. That explanations of theſe ſpeeches were expected and required of us. General Pinckney expreſſed

his ſurpriſe that the ſpeech of General Waſhington was complained of, and ſaid this was a new complaint. Mr. Talleyrand merely obſerved, that the Directory was wounded at it; and proceeded. He ſaid, that the original favourable diſpoſition of the Directory had been a good deal altered by the coldneſs and diſtance which we had obſerved. That inſtead of ſeeing him often, and endeavouring to remove the obſtacles to a mutual approach, we had not once waited on him. General Pinckney obſerved, that when we delivered him our letters of credence, he informed us, that the Directory in a few days would decide concerning us; and that when the deciſion was made he would communicate it to us. That this had for ſome time ſuſpended any procedure on our part. He anſwered that this related only to our public character, and not to private viſits. General Pinckney ſaid, that on an application made by his ſecretary for a paſſport for an American under his care, he was told that he muſt apply to the office of police, for that America had no miniſter in France, ſince the recall of Mr. Monroe. The miniſter ſaid, that was very true; and then proceeded to ſay, that the Directory felt itſelf wounded by the different ſpeeches of Mr. Waſhington and Mr. Adams, which he had ſtated, and would require ſome proof, on the part of the United States of a friendly diſpoſition previous to a treaty with us. He then ſaid that we ought to ſearch for and propoſe ſome means which might furniſh this proof; that if we were diſpoſed to furniſh it, there could be no difficulty in finding it; and he alluded very intelligibly to a loan. He ſaid, he had ſeveral conferences with Mr. Gerry on this ſubject, who had always anſwered that we had no power. Mr. Gerry ſaid, that he had ſtated other objections; that he had particularly urged that it would involve us in a war with Great Britain. He made no reply; and General Pinckney obſerved, that a loan had repeatedly been ſuggeſted to us, but that we had uniformly anſwered, that it exceeded our powers. Mr. Talleyrand replied, that perſons at ſuch a diſtance as we were from our government, and poſſeſſed as we were of the public confidence, muſt often uſe their diſcretion, and exceed their powers for the public good. That there was a material difference between acting when inſtructions were ſilent, and doing what was particularly forbidden; that if indeed a loan was poſitively forbidden, we might conſider ourſelves as incapable of making one; but if, as he ſuppoſed was the caſe (he looked the queſtion) our inſtructions were only ſilent, that it muſt be referred to us to act in a caſe not provided for according to the beſt of our judgment, for the public good: that in almoſt all the treaties made during the revolution, the negociators had exceeded their powers; although the government appointing them was at no conſiderable diſtance. He particularized the treaty with Pruſſia, and ſeveral others. General Pinckney told him that our powers did not extend to a loan, and perhaps might forbid it. The Miniſter ſtill urged the difference between an expreſs prohibition and mere ſilence. He then proceeded to ſtate that the principal objection on the part of our government to a loan muſt be, that it would draw us out of the neutral ſituation in which we wiſhed to continue; that there were various means of evading this; firſt, the ſecrecy of France, which might be relied on: and ſecondly, means of diſguiſing the loan might be deviſed, which would effectually prevent its being conſidered as an aid during the preſent war: that if we were truly and ſincerely deſirous of effecting the thing, we ſhould experience no difficulty.

in finding the means. He again ſtated a propoſition of this ſort, on our part, as being abſolutely neceſſary to prove that the government was not about entering into a treaty with perſons of a temper hoſtile to it. Mr. Gerry not well hearing Mr. Talleyrand, who ſpoke low, aſked him to explain himſelf with reſpect to the propoſition which he had alluded to, ſuppoſing it to be a new one: and he anſwered that one of them was ſecrecy; but that there were beſides various ways which might eaſily be ſuggeſted to cover the loan, as an immediate one, by limiting the time of advancing it to diſtant inſtalments. Mr. Gerry obſerved, that Dutrimond had ſuggeſted that a loan was propoſed to be made, payable after the war, and in ſupplies to St. Domingo. Mr. Talleyrand ſignified, that that might be one of the means uſed; and ſaid, that if we were only ſincere in our wiſh, it would be eaſy to bring about the end. General Marſhall told Mr. Talleyrand, that if the Miniſters of the United States had manifeſted any unwillingneſs to take all proper meaſures to reconcile the two Republics, or any indifference on the ſubject, they had very badly repreſented the feelings and wiſhes of their government; that the government of the United States was moſt ſincerely deſirous of preſerving the friendſhip of France, and had, in his opinion, unequivocally manifeſted that deſire, by having deputed us under the extraordinary circumſtances attending our miſſion, and by having ſo long patiently borne the immenſe loſs of property which had been ſuſtained; that we had endeavoured, according to the beſt of our judgment, to repreſent truly this diſpoſition of our government; but that we underſtood that France would conſider nothing as an evidence of friendſhip, but an act which would tranſcend and violate our powers, and at the ſame time operate the moſt ſerious injury to our country; that neutrality, in the preſent war, was of the laſt importance to the United States, and they had reſolved faithfully to maintain it; that they had committed no act voluntarily, which was a breach of it; and could do nothing in ſecret, which, if known, would juſtly arrange them among the belligerent powers; that in the preſent ſtate of things, if America was actually leagued with France in the war, ſhe would only be required to furniſh money; that we had neither ſhips of war or men to be employed in it, and could conſequently, as a belligerent power, only be aſked for money; that, therefore, to furniſh money, was, in fact, to make war; which we could by no means conſent to do; and which would abſolutely tranſcend our powers; being an act altogether without the view and contemplation of our government, when our miſſion was decided on: that with reſpect to ſupplies to St. Domingo, no doubt could be entertained that our merchants would furniſh them very abundantly, if France would permit the commerce; and a loan really payable after the cloſe of the war, might then be negociated. Mr. Talleyrand again marked the diſtinction between ſilence of inſtructions and an expreſs prohibition; and again inſiſted on the neceſſity of our proving, by ſome means which we muſt offer, our friendſhip for the republic. He ſaid, he muſt exact from us, on the part of his government, ſome propoſition of this ſort; that to prove our friendſhip, there muſt be ſome immediate aid, or ſomething which might avail them; that the principles of reciprocity would require it. General Pinckney and General Marſhall underſtood him, by this expreſſion, to allude to the loan formerly made by France to the United States. Mr. Gerry, at the time, thought he alluded to the treaty to be made; and ſaid, all treaties ſhould

be founded in reciprocity: and then aſked him, whether a loan was the ultimatum of this government. Mr. Talleyrand did not give a direct anſwer to the queſtion: he ſaid, as he was underſtood, that the government inſiſted on ſome act which would demonſtrate our friendly diſpoſition towards, and our good wiſhes for the Republic; this once done, he ſaid, the adjuſtment of complaints would be eaſy; that would be matter of enquiry; and if France had done us wrong, it would be repaired. But that if this was refuſed, it would increaſe the diſtance and coldneſs between the two Republics. The converſation continued in this ſtyle until four o'clock, when we took our leave, and agreed to meet in the evening.

In the courſe of it, and in reply to ſome obſervations of Mr. Talleyrand, reſpecting the proofs of friendſhip required by France, General Pinckney obſerved, that our being here was a mark of the friendly diſpoſition of our government, and that while we were here, the government had paſſed a decree for ſeizing neutral veſſels having on board any article coming out of England; which in its operation would ſubject to capture all our property on the ocean. Mr. Talleyrand replied, that this was not particular to us, but was common to all the neutral powers. At another time, in anſwer to his demand of ſome mark of our friendſhip, General Marſhall obſerved, that we conſidered the mutual intereſts of the two nations as requiring peace and friendſhip; and we relied on finding ſufficient motives in the intereſt of France, to preſerve that friendſhip; without forcing us to an act which tranſcended our powers, and would be ſo injurious to our country. As we were taking our leave, Mr. Talleyrand again noticed our not viſiting him and ſaid, that he conceived our not having had an audience from the Directory ought not to have prevented it. General Marſhall told him, that our ſeeing the Directory, or not, was an object of no ſort of concern to us; that we were perfectly indifferent with regard to it; but that we conceived that until our public character was in ſome degree recognized, and we were treated as the miniſters and repreſentatives of our government, we could not take upon ourſelves to act as miniſters; becauſe by doing ſo, we might ſubject ourſelves to ſome injurious circumſtance to which we could not ſubmit. He ſaid that was very true; but that we might ſee him as private individuals; and diſcuſs the objects of difference between us.

We requeſted of Mr. Talleyrand another interview, at ſuch hour as might be convenient to him, on the ſixth inſtant. He anſwered, that he would receive us at half paſt eleven; at which hour we attended him.

Immediately after our arrival at his office, we were introduced to the miniſter; and General Pinckney ſtated, that we had conſidered, with the moſt ſerious attention, the converſation we had had the honor of holding with him a few days paſt: that the propoſitions he had ſuggeſted, appeared to us to be ſubſtantially the ſame with thoſe which had been made by Mr. X. by Mr. Y. and alſo to Mr. Gerry, with an intention that they ſhould be communicated to his colleagues; that we conſidered it as a propoſition, that the United States ſhould furniſh aid to France, to be uſed during the preſent war: that though it was unuſual to diſcloſe inſtructions, yet we would declare to him, that in addition to its being a meaſure amounting to a declaration of war againſt Great Britain, we were expreſsly forbidden by our inſtructions to take ſuch a ſtep.

The Miniſter ſaid, in the tone of a queſtion, he ſuppoſed our inſtructions were, to do nothing which would amount to a departure from our neutrality.

General Pinckney ſaid, that we were ſo inſtructed, and that they were ſtill more particular. Mr. Talleyrand then proceeded to argue, that it would be no departure from neutrality, to ſtipulate a loan payable after the war: and ſpoke of it clearly as admitting of application to immediate uſe. He ſaid a good deal of the ſecrecy with which the tranſaction might be cloathed; and obſerved further, that a loan payable after the war would be a proof of our faithful obſervance of the duties of neutrality; ſince it would be conſidered as proving that we had rejected propoſitions for an immediate loan. General Marſhall replied, that we thought differently; that in our opinion, any act, on the part of the American government, on which one of the belligerent powers could raiſe money for immediate uſe, would be furniſhing aid to that power, and would be taking part in the war. It would be, in fact, to take the only part which, in the exiſting ſtate of things, America could take. This was our deliberate opinion; and in addition to it, we conſidered our inſtructions as concluſive on this point.

He obſerved, that we had claims on the French government, for property taken from American citizens. Some of thoſe claims were probably juſt. He aſked, if they were acknowledged by France, whether we could not give a credit as to the payment—ſay for two years? We anſwered that we could. He then inſiſted that it was preciſely the ſame thing; that by ſuch an act, we ſhould conſent to leave in the hands of France, funds to which our citizens were entitled, and which might be uſed in the proſecution of the war. General Pinckney ſaid there was a difference between the caſes; that ſuch prizes were now actually in the power of the French, without our conſent; we could not prevent it or get them out; but the granting or not granting a loan was in our own power. He repeated his obſervation; and General Marſhall ſaid, that the property for which money was due to American citizens from the French government, was taken into the poſſeſſion of that government, without any co-operation on the part of the United States. No act of any ſort was performed by our government, which in any degree contributed to place thoſe funds in the hands of France, nor was there any conſent towards it; but in the caſe propoſed, the act would be the act of the government; the government would itſelf place funds in the hands of France, and thereby furniſh means which might be employed in the proſecution of the war. This was the diſtinction between the caſes, and in a queſtion of neutrality, it appeared to us to be all important.—The Miniſter then proceeded to ſtate the caſe of our aſſuming the debt of our citizens, and of paying the money in that manner; but General Pinckney and Mr. Gerry told him we were poſitively forbidden to aſſume the debt to our own citizens, even if we were to pay the money directly to them. He ſeemed ſurprized at this. General Pinckney obſerved, that contrary to uſage, we had deemed it proper, in the exiſting ſtate of things, to ſtate candidly our powers to him, that he might know certainly that we could not ſecretly, or under any diſguiſe whatever, make a loan which might be uſed during the war. Mr. Talleyrand ſaid, he muſt reſume his poſition, that there was a difference, which he muſt inſiſt upon, between a loan payable immediately, and a loan payable in

future; and he ſtill inſiſted there was no difference between a loan payable in future, and a credit for the money which might be due to our citizens. Mr. Gerry obſerved, that his colleagues had juſtly ſtated the diſtinction between the debt which will be due to the citizens of the United States from France, in caſe of her recognizing the claims which we ſhall make in their behalf, and a debt which might ariſe from a loan by the government of the United States to that of France, during the war. The one is the reſult of an arreſt of their property without their conſent; the other would be a voluntary act of the government of the United States, and a breach of their neutrality. There is an additional objection to the latter: if the United States ſhould make ſuch a loan, it would give too much reaſon to ſuppoſe that their government had conſented, in a colluſive manner, to the capture of the veſſels of their citizens, and had thus been furniſhing France with ſupplies to carry on the war. Our inſtructions are expreſs, not to ſtipulate for any alds to France, either directly or indirectly, during the war. With reſpect to a ſecret ſtipulation, a loan cannot be made without an act of the legiſlature: but if the Executive were adequate to it, we have had an inſtance of an injunction of ſecrecy on members of the Senate, on an important ſubject, which one of the members thought himſelf warranted in publiſhing in the newſpapers; and of frequent inſtances of ſecrets which have otherwiſe eſcaped: ſecrecy, in this inſtance, might therefore be conſidered, if the meaſure was in itſelf admiſſable, as being impracticable. General Marſhall obſerved, that we had conſidered the ſubject with great ſolicitude, and were decidedly of opinion, that we could not, under any form, make a loan which could be uſed during the war; that we could not tell what our government would do, if on the ſpot; but were perfectly clear, that without additional orders, we could not do what France requeſted. Mr. Gerry obſerved, that the government and nation of the United States, as well as ourſelves, were earneſtly ſolicitous to reſtore friendſhip between the two republics; that as General Marſhall had ſtated, we could not ſay what our government would do, if on the ſpot; but if this propoſition met the wiſhes of the government of France, General Marſhall and himſelf had agreed immediately to embark for the United States, and lay before our government the exiſting ſtate of things here, as it reſpected our nation, to enable them to determine whether any, and what other meaſures on their part were neceſſary. Mr. Talleyrand made no obſervation on this propoſition: but enquired whether we expected ſoon to receive orders. Mr. Gerry mentioned an anſwer he had received to a letter ſent by him in November; and General Marſhall ſtated, that our firſt diſpatches were ſent on board two veſſels at Amſterdam, on the 28th of November; from which Mr. Talleyrand could form as juſt an idea as we could, when an anſwer might be expected: but he did not think it probable one would arrive before a month to come. General Marſhall told him, we knew that our government had not received our diſpatches on the 8th of January; and we could not tell when they might be received. He aſked whether our intelligence came through England? General Marſhall anſwered that it did not; and General Pinckney ſaid, that American papers as late as the 8th of January mentioned the fact.

There was ſome converſation about the time when theſe inſtructions might be expected; and General Marſhall ſuggeſted a doubt whether our

government might give any inſtructions. He aſked, with ſome ſurprize, whether we had not written for inſtructions? and we anſwered, that we had not: and Mr. Gerry ſaid that we had ſtated facts to our government, and conceived that nothing more was neceſſary. General Pinckney obſerved, that the government knowing the facts, would do what was proper; and that our applying or not applying for inſtructions would not alter their conduct. Mr. Talleyrand then enquired whether we had not ſent any one to the United States. General Pinckney ſaid no: and Mr. Gerry added, that ſoon after our arrival we had made propoſitions to ſend one of our number, which were not accepted. And General Marſhall further added, that thoſe who had communicated with us, had told us we ſhould be ordered out of France immediately; and we had ſuppoſed that we ſhould be ordered out before our letters could reach the government. Mr. Gerry then obſerved, that the government of France muſt judge for itſelf; but that it appeared to him, that a treaty on liberal principles, ſuch as thoſe on which the treaty of commerce between the two nations was firſt eſtabliſhed, would be infinitely more advantageous to France than the trifling advantages ſhe could derive from a loan. Such a treaty would produce a friendſhip and attachment on the part of the United States to France, which would be ſolid and permanent, and produce benefits far ſuperior to thoſe of a loan, if we had powers to make it. To this obſervation Mr. Talleyrand made no reply. We parted without any ſentiment delivered by the Miniſter on the ſubject of our going home to conſult our government.

As we were taking our leave of Mr. Talleyrand, we told him that two of us would return immediately to receive the inſtructions of our government, if that would be agreeable to the Directory: if it was not, we would wait ſome time, in the expectation of receiving inſtructions.

MESSAGE *from the* PRESIDENT *to* CONGRESS.

Gentlemen of the Senate, and
Gentlemen of the House of Repreſentatives,

I NOW tranſmit to Congreſs the Diſpatch, Number 8, from our Envoys Extraordinary to the French Republic, which was received at the Secretary of State's office, on Thurſday the fourteenth day of this month.

JOHN ADAMS.

United States,
June 18th, 1798.

(No. 8.)

Paris, April 3, 1798.

DEAR SIR,

WE herewith tranſmit you the copy of a letter written to us by the Miniſter of Foreign Affairs, dated the 28th Ventoſe, (18th March) and purporting to be an anſwer to our memorial of the 17th of January.

We alſo ſend you in this incloſure a copy of our reply, which has been preſented this morning. As ſoon as we certainly know what ſteps the French government mean to purſue in conſequence of this reply, you ſhall be informed of them.

We remain, with great reſpect and eſteem,
Your moſt obedient ſervants,

CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

Colonel Pickering, Secretary of the United States.

[TRANSLATION.]

The Miniſter of Foreign Relations of the French Republic,

To Meſſrs. CHARLES COTESWORTH PINCKNEY, J. MARSHALL, *and* E. GERRY.

THE underſigned Miniſter of Foreign Relations of the French Republic, has laid before the Executive Directory, the memorial which the Commiſſioners and Envoys Extraordinary of the United States of America have tranſmitted to him, under the date of 28th Nivoſe laſt,

[17th January, 1798] and it is in execution of the intentions of the Directory, which desires to convince the United States of the true dispositions which animate it with respect to them, that the undersigned communicates to the Commissioners and Envoys Extraordinary the following observations.

The first thing which must excite attention, in the memorial of the Commissioners and Envoys Extraordinary, is the method which they have thought proper to pursue in the exposition and in the discussion of the points which are in dispute between the two states. The Executive Directory, animated with dispositions the most conciliatory, and penetrated with the interests which should draw the two nations together, as well as eager to concur in the well known wish of the two people, to maintain a perfect intimacy, had reason to expect, that the Envoys would have brought, in the name of their government, dispositions entirely similar, and a temper previously prepared by the same views and the same desires. What must be, after this, the surprize of the Executive Directory, when the undersigned rendered it an account of a memorial, in which the Commissioners and Envoys Extraordinary, reversing the known order of facts, have aimed to pass over, as it were in silence, the just motives of complaint of the French government, and to disguise the true cause of the misunderstanding, which is prolonged between the two Republics! So that it would appear, from that exposition, as partial as unfaithful, that the French Republic has no real grievance to substantiate, no legitimate reparation to demand, whilst the United States should alone have a right to complain, should alone be entitled to claim satisfaction.

The designs, which have induced a preference of this course to every other, have not escaped the Executive Directory; and it is as well from a just sentiment of the dignity of the Republic, whose interests are confided to it, as to provide eventually against the views, which may be contemplated by such conduct, that it has charged the undersigned to dispel these empty appearances, which indeed cannot exist when facts shall be re-established, and the true intentions of the Directory shall be solemnly made to appear, in opposition to those which can be attributed to it only gratuitously, and by taking advantage of its silence.

An incontestible truth, and one which has been entirely passed over in the memorial of the Commissioners and Envoys Extraordinary, is, that the priority of grievances and complaints belonged to the French Republic; that these complaints and these grievances were as real as numerous, long before the United States had the least grounded claim to make, and consequently before all the facts, on which the Envoys rest with so many details, had existed.

Another truth, not less incontestible, is, that all the grievances which the Commissioners and Envoys Extraordinary exhibit, with the exceptions, which the undersigned was ready to discuss, are a necessary consequence of the measures which the prior conduct of the United States had justified on the part of the French Republic, and which its treaties with the said United States authorized in certain cases, which it depended upon the General Government of the Union to create or not to create.

It would be foreign to the purpose to enter into an enumeration of the complaints which the French government had room to make against the Federal government, since the commencement of the war, excited

againſt the French Republic, by a power jealous of its proſperity and its regeneration. Theſe details are contained in the numerous official communications, made at Philadelphia by the Miniſters of the Republic, and have been recapitulated by the predeceſſor of the underſigned, in a note addreſſed, under the date of 19th Ventoſe, in the 4th year, [9th March, 1796] to the Miniſter Plenipotentiary of the United States at Paris, and very particularly detailed in the official note of Citizen Adet, dated at Philadelphia, on the 25th Brumaire, in the 5th year [15th November, 1796]. Complaint was made in the above note of the inexecution of the treaties concluded in 1778, in the only clauſes in which France had ſtipulated ſome advantages, in return for the efforts which ſhe engaged to make for the common benefit, and againſt the inſults offered to the dignity of the French Republic.

In fact, from the commencement of the war, the American tribunals have claimed the right to take cognizance of the validity of prizes carried into the ports of the United States by French cruizers. It has reſulted from this pretenſion, contrary to the letter of the treaty of commerce of 1778, that the property of citizens of the Republic has been unjuſtly detained, and that French cruizing has been totally diſcouraged in the American ſeas againſt an enemy, who revived the moſt barbarous laws of that mode of warfare, to deſtroy and inſult the American commerce, even under the eyes of the Federal government.

That government did not confine itſelf to favour the enemies of the French Republic in a point ſo eſſential, a point on which in truth ſome abuſes might ariſe, but which the French government manifeſted itſelf diſpoſed to prevent; it even went ſo far as to permit enemy's veſſels, contrary to the literal meaning of the above treaty, to put into the ports of the United States, after having captured *the property or ſhips belonging to French citizens.* Soon afterwards a national corvette, at anchor in the port of Philadelphia,* was ſeized by order of the government, and this arreſt was afterwards extended even to her commander. The American tribunals, in like manner, arreſted the perſon of the ex-governor of Guadaloupe, for acts of his adminiſtration; and it was neceſſary that the Executive Directory ſhould threaten to make repriſals to put this affair in the courſe preſcribed by the law of nations.

During the whole ſpace of time which has been juſt reviewed, the French government made fruitleſs efforts to induce the government of the United States, to procure for the agents of the Republic, the legal means of carrying into effect the clauſes of the conſular convention of 1788, which granted to our navigation and commerce, privileges whoſe principle was conſecrated by the treaties of 1778; and nothing could ever be obtained in this reſpect but fruitleſs references to the tribunals. In general, all matters, which, with intentions ſincerely conciliatory, ſhould have been terminated by means of negociation, were habitually referred to the judicial authorities; and theſe, whether they were or were not ſubject to a ſecret influence, in the end either deprived the Republic of rights founded upon treaties, or modified their exerciſe as ſuited the ſyſtem of the government.

Such was the true ſtate of things in the month of Auguſt, 1795, the period when the ratification of the Treaty of Amity, Navigation and

* *Seizure of the Caſſius, in Auguſt*, 1795.

Commerce, ſigned at London in the month of November preceding, between the United States and Great-Britain, filled the meaſure of the grievances of the republic.

What had been, until then, the conduct of the French government towards the United States? The underſigned, in order to contraſt it with that of the ſaid States, will content himſelf with recalling facts, which cannot however have been forgotten.

Occupied with the moſt preſſing cares in Europe, the republic did not direct her attention to the United States, but in order conſtantly to give them new proofs of the moſt ſincere friendſhip and intereſt, and ſhe left it to her agents, amicably to diſcuſs with the Federal government, the controverſies which have juſt been ſketched, and which, had they been handled on both ſides in the true ſpirit of conciliation, could not have altered their good underſtanding to the preſent degree. The republic was hardly conſtituted, when a miniſter was ſent to Philadelphia, whoſe firſt act was to declare to the United States, that they would not be preſſed to execute the defenſive clauſes of the Treaty of Alliance, although the circumſtances, in the leaſt equivocal manner, exhibited the *caſus fœderis*. Far from appreciating this conduct, the American government received it as the acknowledgment of a right; and it is in this ſpirit alſo, that the Commiſſioners and Envoys Extraordinary have met this queſtion in the beginning of their memorial. The Miniſter of the republic at Philadelphia, having given uneaſineſs to the American government, was readily recalled, even with circumſtances of extreme rigour. His ſucceſſor carried to the United States every deſirable reparation, as well as declarations the moſt friendly and ſincere.

Nothing equals the ſpirit of conciliation, or rather of condeſcenſion, in which his inſtructions were drawn, relatively to all the points which cauſed any uneaſineſs in the Federal government. The citizen Adet again enforced, in the name of the National Convention, thoſe expreſſions of good will; and that aſſembly itſelf received, with the effuſion of an unbounded confidence and ſecurity, the new Miniſter, whom the Preſident of the United States ſent to it, with the apparent intention of ſincerely correſponding with the diſpoſitions which the republic had not ceaſed to profeſs.

What might appear incredible is, that the republic, and her alliance, were ſacrificed at the moment when ſhe thus redoubled her regards for her ally; and that the corresponding demonſtrations of the Federal government, had no other object, but to keep her, as well as her government, in a falſe ſecurity.—And yet it is now known, that, at this very period, Mr. Jay, who had been ſent to London, ſolely, as it was then ſaid, to negociate arrangements relative to the depredations committed upon the American commerce, by the cruiſers of Great-Britain, ſigned a Treaty of Amity, Navigation and Commerce, the negociating and ſigning of which had been kept a profound ſecret at Paris and at Philadelphia. This Treaty was avowed to our Miniſter Plenipotentiary only at the laſt extremity; and it was communicated to him only for form's ſake, and after it had received the ratification of the Senate. When the agents of the republic complained of this myſterious conduct, they were anſwered by an appeal to the Independence of the United States, ſolemnly ſanctioned in the Treaties of 1778—a ſtrange manner of conteſting a grievance, the reality of which was demonſtrated by the diſſimulation to

which recourſe was had—an inſidious ſubterfuge, which ſubſtitutes for the true point of the queſtion, a general principle, which the republic cannot be ſuppoſed to diſpute, and which deſtroys, by the aid of a ſophiſm, that intimate confidence, which ought to exiſt between two allies, and which, above all, ought to exiſt between the French republic and the United States.

If it be difficult to find in this conduct what ought to be expected from a friend, what muſt be thought of the treaty itſelf, and of its proviſions? This Treaty is now known to all Europe; and the ſmall majority by which it paſſed the two Houſes, as well as the multitude of impoſing wiſhes which were expreſſed by the nation againſt ſuch an act, bear honorable teſtimony in favour of the opinion which the French government has adopted concerning it. The underſigned will not repeat, with reſpect to this Treaty, what his predeceſſor has ſaid of it, in his note of the 19th Ventoſe, before cited, and in that of the 19th Meſſidor following, nor what the Miniſter Plenipotentiary of the republic at Philadelphia has ſet forth, at great length, in his official note of the 25th Brumaire. He will content himſelf with obſerving, ſummarily, that in this Treaty, every thing having been calculated to turn the neutrality of the United States to the diſadvatage of the French republic, and to the advantage of England; that the Federal government having in this act made to Great-Britain conceſſions, the moſt unheard of, the moſt incompatible with the intereſts of the United States, the moſt derogatory to the alliance which ſubſiſted between the ſaid States and the French republic; the latter was perfectly free, in order to avoid the inconveniencies of the Treaty of London, to avail itſelf of the preſervative means with which the law of nature, the law of nations, and prior Treaties, furniſhed it.

Such are the reaſons which have produced the decrees of the Directory, of which the United States complain, as well as the conduct of its agents to the Weſt-Indies. All theſe meaſures are founded on the 2d article of the Treaty of 1778, which requires, that, in matters of navigation and commerce, France ſhould always be, with reſpect to the United States, on the footing of the moſt favoured nation. The Executive Directory cannot be arraigned, if, from the execution of this eventual clauſe, ſome inconveniences have reſulted to the American flag. As to the abuſes which may have ſprung from that principle, the underſigned again repeats, that he was ready to diſcuſs them in the moſt friendly manner.

From this faithful expoſition of facts, which have progreſſively led to the preſent miſunderſtanding between the two States, it reſults, as the underſigned has ſaid, in the beginning of this anſwer, that the priority of grievances belongs to the French republic; and that ſuch of its meaſures as may have occaſioned the complaints of the United States, are, with ſome exceptions, the natural conſequence of a ſtate of things, which it depended upon them to create or not create.

If the underſigned ſhould terminate the expoſition of the grievances of the republic with the Treaty of London, he would imperfectly fulfil his taſk—It is his duty to carry his views further. From the moment that the Treaty in queſtion was put into execution, the government of the United States ſeemed to think itſelf freed from the neceſſity of keeping any meaſures with the republic; notwithſtanding the

reiterated aſſurance which had been given to its miniſters, that the treaty would in no reſpect change the pre-exiſting ſtate of neutrality of the United States, notice was given in the courſe of the year 1796, to the French cruizers, that they could no longer, as had been until then practiſed, be permitted to ſell their prizes in the ports of the United States. This deciſion was rendered by the Federal court of juſtice, and founded upon the treaty concluded between the United States and Great-Britain.

The newſpapers, known to be under the indirect controul of the cabinet, have ſince the treaty redoubled the invectives and calumnies againſt the Republic and againſt her principles, her magiſtrates, and her envoys. Pamphlets, openly paid for by the miniſter of Great-Britain, have re-produced, in every form, thoſe inſults and calumnies, without a ſtate of things ſo ſcandalous having ever attracted the attention of the government, which might have repreſſed it. On the contrary, the government itſelf was intent upon encouraging this ſcandal, in its public acts. The Executive Directory has ſeen itſelf denounced in a ſpeech delivered by the Preſident in the courſe of the month of May laſt (O. S.) as endeavouring to propagate anarchy and diviſion within the United States. The new allies which the Republic has acquired, and who are the ſame that contributed to the independence of the Americans, have been equally inſulted, in the official correſpondencies which have been made public, or in the newſpapers. In fine, one cannot help diſcovering, in the tone of the ſpeech and of the publications which have been juſt pointed out, a latent enmity which only waits an opportunity to break out.

Facts being thus eſtabliſhed, it is diſagreeable to be obliged to think that the inſtructions, under which the commiſſioners have acted, have not been drawn up with the ſincere intention of attaining pacific reſults; becauſe, far from proceeding in their memorial upon ſome avowed principles and acknowledged facts, they have inverted and confounded both, ſo as to be enabled to impute to the Republic all the misfortunes of a rupture, which they ſeem willing to produce by ſuch a courſe of proceeding. It is evident that the deſire plainly declared of ſupporting, at every hazard, the treaty of London, which is the principal grievance of the Republic, of adhering to the ſpirit in which this treaty was formed and executed, and of not granting to the Republic any of the means of reparation, which ſhe has propoſed, through the medium of the underſigned, have dictated thoſe inſtructions. It is equally evident, that no heſitation is made in ſacrificing to thoſe ſtrange ſentiments, thoſe, which the treaties of 1778, and the recollection of the circumſtances in the midſt of which they were concluded, ought to inſpire.

The remote conſequences of ſuch conduct have not eſcaped the attention of the Directory. It is deſired, while nothing is omitted to prolong the miſunderſtanding, and even to augment it, to throw upon the Republic all the odium, in the view of America and of Europe. It is ſought to juſtify by deluſive appearances the prejudices with which the name of the Republic is ſurrounded at pleaſure, and the ſyſtem of exaſperation and alienation which is purſued in relation to it, with the moſt ſtrange obſtinacy. It is finally wiſhed to ſeize the firſt favorable occaſion to conſummate an intimate union, with a power, towards which a devotion and partiality is profeſſed, which has long been the principle of the conduct of the Federal government.

The intentions which the underſigned here attributes to the government of the United States, are ſo little diſguiſed, that nothing ſeems to have been neglected at Philadelphia to manifeſt them to every eye. It is probably with this view, that it was thought proper to ſend to the French Republic, perſons whoſe opinions and connections are too well known, to hope from them diſpoſitions ſincerely conciliatory. It is painful for the underſigned to be obliged to make a contraſt between this conduct, and that which was purſued towards the cabinet of St. James, under ſimilar circumſtances. An

eagerneſs was then felt to ſend to London, miniſters well known for ſentiments corresponding with the object of their miſſion. The Republic, it ſeems, might have expected a like deference; and if the ſame propriety has not been obſerved with reſpect to it, it is exceedingly probable, that it is to be attributed to the views above alluded to by the underſigned.

It is impoſſible to foreſee whither ſuch diſpoſitions may lead. The underſigned does not heſitate to believe, that the American nation, like the French nation, ſees this ſtate of things with regret, and does not conſider its conſequences without ſorrow. He apprehends, that the American people will not commit a miſtake, concerning the prejudices with which it has been deſired to inſpire them againſt an allied people, nor concerning the engagements which it ſeems to be wiſhed to make them contract to the detriment of an alliance, which ſo powerfully contributed to place them in the rank of nations, and to ſupport them in it; and that they will ſee in theſe new combinations, the only dangers their proſperity and importance can incur.

Penetrated with the juſtice of theſe reflections and their conſequences, the Executive Directory has authorized the underſigned to expreſs himſelf with all the frankneſs which becomes the French nation. It is indiſpenſible, that in the NAME of the Directory he ſhould diſſipate thoſe illuſions, with which for five years the complaints of the miniſters of the Republic have been inceſſantly ſurrounded at Philadelphia, in order to weaken, calumniate, or diſtort them: it was eſſential, in fine, that by exhibiting their ſentiments in an unequivocal manner, he ſhould clear up all the doubts, and all the falſe interpretations, of which they might be the object.

It is, therefore, only in order to ſmooth the way of diſcuſſions, that the underſigned has entered into the preceding explanations. It is with the ſame view, that he declares to the commiſſioners and envoys extraordinary, that notwithſtanding the kind of prejudice, which has been entertained with reſpect to them, the Executive Directory is diſpoſed to treat with that one of the three, whoſe opinions, preſumed to be more impartial, promiſe, in the courſe of the explanations, more of that reciprocal confidence, which is indiſpenſible.

The underſigned flatters himſelf, that this overture will not meet, on the part of the commiſſioners and envoys extraordinary, with any ſerious difficulty. It is ſtill more natural to hope it, becauſe, by the tenor of their powers, the ſaid commiſſioners and envoys extraordinary, are authorized to negociate jointly or ſeparately: So that nothing but the deſire of preventing any accommodation could produce any objection againſt this meaſure; which moreover is only pointed out to the commiſſioners themſelves, in order that nothing may here bear an unfavorable appearance; and which evidently has no other object than to aſſure to the negociation an happy iſſue, by avoiding at the outſet every thing which may on either ſide awaken, in the courſe of this negociation, ſentiments calculated to endanger it.

The underſigned hopes, that the commiſſioners and envoys extraordinary will ſoon enable him to inform the Executive Directory of their determination. Whatever this determination may be, the underſigned flatters himſelf, that the explanations into which he has entered, will have placed the ſubjects in diſpute in their true light, and may eventually ſerve to diſſipate, in the eyes of all impartial men, the unfavorable impreſſion, which it might be endeavoured to fix upon the intentions of the French Republic and its government. He concludes by renewing to the commiſſioners and envoys extraordinary the aſſurance of his conſideration.

(Signed)

CH. MAU. TALLEYRAND.

Paris, 28th Ventoſe, 6th year. [*18th March*, 1798.]

Faithfully tranſlated,

JACOB WAGNER.

The Miniſters Plenipotentiary and Envoys Extraordinary from the United States of America to the French Republic, to the Miniſter of Exterior Relations.

CITIZEN MINISTER,

YOUR letter of the 28th Ventoſe (18th March) in anſwer to a memorial of the underſigned, dated 17th January, was received the day after its date, and has been conſidered with the moſt reſpectful attention.

In that memorial, the underſigned, without furniſhing cauſe for reproach, might have limited themſelves to a ſtatement of the numerous and well-founded complaints of the nation they repreſent. They have been induced to extend their obſervations to other ſubjects, by that ſincere deſire to re-eſtabliſh harmony and mutual confidence between the two republics, which the government of the United States has never ceaſed to feel and to expreſs. Suppoſing that thoſe miſrepreſentations, to which human actions and human ſentiments muſt ever continue to be expoſed, might have impreſſed on the mind of the French government, occupied with the great and intereſting events of Europe, the unfounded ſuſpicion of partiality, on the part of America, for the enemies of France, the underſigned cheriſhed the hope, that a complete review of the conduct of their government, accompanied with a candid and thorough inveſtigation of the real principles on which that conduct was founded, by removing prejudices, might reſtore ſentiments which the United States have ever ſought, and ſtill ſeek to preſerve.

In taking this review, it was obvious that a minute diſcuſſion of every particular fact might incumber the examination with details which previous explanations had rendered unneceſſary, and therefore it was confined to thoſe leading meaſures of which the particular caſes were the neceſſary reſult. The underſigned, however, declared, and they ſtill declare, that if the government of the United States has given juſt cauſe of complaint to that of France, in any caſe, they are ready to conſider and to compenſate the injury: that negociation, the opening of which they have for nearly ſix months unremittingly ſolicited and patiently attended, would, if entered upon, demonſtrate the ſincerity of this declaration.

Still animated by the ſame ſpirit which has dictated all their efforts to approach this Republic, ſtill ſearching to remove unfavorable impreſſions, by a candid diſplay of truths, and a frank manifeſtation of the principles which have really governed the United States, and ſtill endeavouring thereby to facilitate the reſtoration of harmony between two nations, which ought to be the friends of each other; the underſigned will lay before you the reſult of their reflections on your letter of the 28th Ventoſe.

Whatever force you may pleaſe to allow to their obſervations, the relative ſituation of the two Republics, it is hoped, will not fail to convince you that they proceed from the moſt perfect conviction of their juſtice. You contend, citizen miniſter, that the priority of complaint is on the ſide of France, and that thoſe meaſures, which have ſo injured and oppreſſed the people of the United States, have been produced by the previous conduct of their government.

To this the underſigned will now only obſerve, that if France can juſtly complain of any act of the government of the United States, whether that act be prior or ſubſequent to the wrongs received by that government, a diſpoſition and a wiſh to do in the caſe what juſtice and friendſhip may require, is openly avowed, and will continue to be manifeſted.

Your complaints againſt the United States may be claſſed under three heads.

1ſt. The inexecution of their Treaties with France.

2dly. The treaty of Amity, Commerce and Navigation formed with Great Britain.

3dly. The conduct of their Government ſince that Treaty.

If the undersigned shall be disappointed in their hope to convice you, that on no one of these points can their government be justly inculpated, yet they persuade themselves that the demonstration of the good faith and upright intention, with which it has ever acted, will be complete and satisfactory. This being proved, and a tender of compensation for any unintentional wrong being made, a base for accommodation is offered, which they must yet hope will be acceptable to France.

1st. The inexecution of the treaties between the United States and France. Under this head, you complain, first—That from the commencement of the war, the American tribunals have, in effect, pretended to the right of taking cognizance of the validity of prizes brought into the ports of the United States.

2dly. That against the textual sense of the treaty, the government has permitted the ships of the enemy to come to in their ports, after having captured property or vessels belonging to French citizens.

3dly. That it has ordered the arrest of a national corvette, anchored in the port of Philadelphia, and that the arrestation has extended to the Captain Commandant.

4thly. The refusal to provide the means to execute the Consular Convention.

These complaints shall be considered in the order in which they are made.

1st. From the commencement of the war, the American tribunals have, in effect, pretended to the right of taking cognizance of the validity of prizes, brought into the ports of the United States by French cruizers.

You have not been pleased to state a case, in which this right has been asserted, and the undersigned are persuaded that no such case exists.

Far from asserting it, the government of America has expressly disclaimed it. Mr. Jefferson, the then Secretary of State, in his letter to Mr. Morris of the 16th of August, 1793, which letter was laid before the French government, declares, "that the United States do not pretend any right to try the validity of captures made on the *high seas* by France, or any other nation, on its enemies.

"These questions belong of common usage, to the sovereign of the captor, and whenever it is necessary to determine them, resort must be had to his courts. This is the case provided for in the 17th article of the treaty, which says, that such prizes shall not be arrested, nor cognizance taken of the validity thereof; a stipulation much insisted on by Mr. Genet and the consuls, and which we never thought of infringing or questioning."

Mr. Randolph, the successor of Mr. Jefferson, in his letter to Mr. Fauchet, of the 29th May, 1795, says, "As to prizes made by legal cruizers on the *high seas*, it never was the intention of the President to interpose, he having abstained (as the 17th article of our treaty of commerce imports) from examining into their lawfulness."

Mr. Monroe, in his letter to your predecessor, of the 15th March, 1796, says, "You will observe, I admit the principle, if a prize was taken upon the high seas, and by a privateer fitted out within the Republic or its dominions, that in such case, our courts have no right to take cognizance of its validity. But is any case of this kind alledged? I presume none is or can be shown."

But the United States have deemed it an indispensible duty to prevent, so far as they could prevent, the practice of hostility against nations with whom they were at peace, within their own limits, or by privateers fitted out in their own ports.

For the reasoning of their government in support of this decision, the undersigned will again refer to the letter of Mr. Jefferson already quoted.

"Another doctrine advanced by Mr. Genet is, that our courts can take no cognizance of questions, whether vessels, held by them as prizes, are lawful prizes or not; that this jurisdiction belongs exclusively to their consulates here, which have been lately erected by the National Assembly into complete courts of admiralty.

"Let us conſider firſt, what is the extent of the juriſdiction which the conſulates of France may rightfully exerciſe here. Every nation has, of natural right, entirely and excluſively, all the juriſdiction which may be rightfully exerciſed in the territory it occupies. If it cedes any portion of that juriſdiction to judges appointed by another nation, the limits of their power muſt depend upon the inſtrument of ceſſion. The United States and France have, by their conſular convention, given mutually, to their conſuls juriſdiction in certain caſes eſpecially enumerated. But that convention gives to neither the power of eſtabliſhing complete courts of admiralty, within the terrritory of the other, nor even of deciding the particular queſtion of prize or not prize. The conſulates of France then cannot take judicial cognizance of thoſe queſtions here.

"Of this opinion Mr. Genet was when he wrote his letter of May 27th, wherein he promiſes to correct the error of the conſul at Charleſton, of whom in my letter of the 15th I had complained as arrogating to himſelf that juriſdiction; though in his ſubſequent letters he has thought proper to embark in the errors of his conſuls.

"The real queſtion is, whether the United States have not a right to protect veſſels within their waters, and on their coaſts? The Grange was taken within the Delaware, between the ſhores of the Jerſeys and of the Delaware ſtate, and ſeveral miles above its mouth. The ſeizing of her was a flagrant violation of the juriſdiction of the United States. Mr. Genet, however, inſtead of apologizing, takes great merit, in his letters, for giving her up. The William is ſaid to have been taken within two miles of the ſhores of the United States. When the admiralty declined cognizance of the caſe, ſhe was delivered to the French conſul, according to my letter of June 25th, to be kept until the Executive of the United States ſhould examine into the caſe, and Mr. Genet was deſired, by my letter of June 29th, to have them furniſhed with the evidence on behalf of the captors, as to the place of capture; yet to this day it has never been done. The brig Fanny was alledged to be taken within five miles from our ſhore; the Catharine within two miles and an half. It is an eſſential attribute of the juriſdiction of every country to preſerve peace and puniſh acts in breach of it, and to reſtore property taken by force within its limits. Were the armed veſſel of any nation to cut away one of our own from the wharves of Philadelphia, and to chuſe to call it a prize, would this exclude us from the right of redreſſing the wrong? Were it the veſſel of another nation, are we not equally bound to protect it while within our limits? Were it ſeized in any other waters or on the ſhores of the United States, the right of redreſſing it is ſtill the ſame: and humbled indeed would be our condition were we obliged to depend for that on the will of a foreign conſul, or on any negociation with diplomatic agents. Accordingly this right of protection within its waters, and to a reaſonable diſtance on its coaſts, has been acknowledged by every nation and denied to none; and if the property ſeized be yet within their power, it is their right and duty to redreſs the wrong themſelves.

"France herſelf has aſſerted the right in herſelf, and recognized it in us, in the 6th article of our treaty, where we mutually ſtipulate, that we will *by all the means in our power* (not by negociation) protect and defend each other's veſſels and effects in our ports or roads, or on the ſeas near our countries, and recover and reſtore the ſame to the right owners. The United Netherlands, Pruſſia and Sweden, have recognized it alſo in treaties with us; and indeed it is a ſtanding formule inſerted in almoſt all the treaties of all nations, and proving the principle to be acknowledged by all nations."

In the letter of Mr. Randolph to Mr. Fauchet, already cited, that gentleman reſumes this ſubject, and Mr. Fauchet in anſwer ſays; "The Admiralty Courts have always ceded to the entreaties of our enemies for their intervention in prize cauſes; in truth, frequently and almoſt conſtantly, by

uſing the double plea of which you ſpoke to me, that is to ſay, by arguing either of ſeizure within the juriſdiction line of the United States, or of armament or augmentation of armament of the capturing veſſels, in their ports. On this ſubject, Sir, you requeſt me to ſpecify a circumſtance where a prize was arreſted, which did not come under that denomination, and you take the trouble to eſtabliſh, that they have a right to intervene in every caſe that can be brought under thoſe heads. In the firſt place, Sir, I never have, at leaſt to my recollection, conteſted the right of your courts, or of the government, to interfere in matters of the nature of thoſe you mention."

It would ſeem to be inconteſtible, that the principle aſſerted by the United States, which indeed is an unqueſtionable principle, has been admitted in its utmoſt latitude by France. It is believed that in the execution of this principle, the government and tribunals have only been guided by a ſenſe of duty and the obligations of juſtice. If in any caſe that can be ſelected, wrong has unintentionally been committed, that wrong has grown inevitably out of the ſituation of the United States, and of the conduct of perſons they have been unable to controul, and will with readineſs be corrected.

2dly. That againſt the textual ſenſe of the treaty, the government has permitted the ſhips of the enemy to come to in their ports, after having captured property or veſſels belonging to French citizens.

It is to be regretted, that you have not been pleaſed to ſtate ſome particular caſe, if the caſe be founded on a fact, which has manifeſted this permiſſion: or if it be founded in principle, the preciſe difference between the conſtruction given by the Preſident of the United States to the article of the treaty of the 6th of February, 1778, relative to this ſubject, and that for which you may contend. For the want of ſuch a guide, the underſigned may diſcuſs unneceſſary points, without giving you complete ſatisfaction on that which in your mind may conſtitute the real difficulty.

The 17th article is in theſe words: "It ſhall be lawful for the ſhips of war of either party and privateers freely to carry whitherſoever they pleaſe the ſhips and goods taken from their enemies, without being obliged to pay any duty to the officers of the admiralty or other judges; nor ſhall ſuch prizes be arreſted or ſeized when they come to or enter the ports of either party, nor ſhall the ſearchers, or other officers of thoſe places, ſearch the ſame, or make examination concerning the lawfulneſs of ſuch prizes; but they may hoiſt ſail at any time and depart, and carry their prizes to the places expreſſed in their commiſſions, which the commanders of ſuch ſhips of war ſhall be obliged to ſhow: on the contrary, no ſhelter or refuge ſhall be given in their ports to ſuch as ſhall have made prize of the ſubjects, people or property of either of the parties; but if ſuch ſhall come in, being forced by ſtreſs of weather or the dangers of the ſea, all proper means ſhall be vigorouſly uſed that they go out and retire from thence as ſoon as poſſible."—Do you contend, citizen miniſter, that this article ought to be rigidly conſtrued according to its letter? If you do, it becomes neceſſary to aſcertain what are the diſabilities to which its letter really ſubjects the veſſels belonging to the enemies of France. They are, 1ſt. That no ſhelter or refuge ſhall be given in the ports of the United States to the ſhips of war or privateers belonging to the enemy, *which ſhall have made prize* of the ſubjects, people or property of France.—2dly. That if ſuch ſhips of war or privateers ſhall come in, being forced by ſtreſs of weather or the danger of the ſeas, all proper means ſhall be vigorouſly uſed that they go out and retire from thence as ſoon as poſſible.

The letter of the article does not exclude generally the ſhips of war belonging to the enemy, but thoſe only *which have made prize* of the ſubjects, people or property of France. That the veſſel ſhall have made a prize is a part and an eſſential part of the deſcription. Whether the veſſel be or be not within this deſcription is a fact, the aſcertainment of which muſt precede the meaſures to be taken in conſequence of that fact. When the fact ſhall have been aſcertained, the letter of the article denies refuge or ſhelter to the

ſhip of war or privateer, but not to the prize which may have been made. You well know, citizen miniſter, that if the letter of the article is to be ſet up againſt its ſpirit, when the former is moſt favourable to the views of France, the letter muſt ſtill be adhered to, though it ſhould counteract thoſe views. The ſituation of the United States bound them to obſerve, between the belligerent powers, an exact neutrality, in all caſes where their previous treaties had not ſtipulated advantages or impoſed diſabilities.

They could not refuſe to one belligerent power thoſe rights of ordinary hoſpitality which were enjoyed by others, which the common uſages of nations permit, and which were forbidden by no particular treaty. Such refuſal would have been manifeſtly partial, and a plain departure from that neutral poſition in which the United States found themſelves, and which good faith, integrity and their beſt intereſts impelled them religiouſly to maintain.—Thus circumſtanced it was the duty of the government to give its true conſtruction to a treaty granting advantages to one of the belligerent powers, and impoſing diſabilities on another. In ſearching for this true conſtruction, its beſt judgment ought to be exerciſed, and the dictates of that judgment ought to be obeyed. The United States have done ſo. They have refuſed ſhelter in their ports to the prizes made on the French Republic, or to the ſhips of war belonging to the enemy and accompanying ſuch prizes.

They have permitted ſhips of war, not bringing prizes with them, to remain in their ports, without inſtituting tribunals to enquire whether ſuch ſhips have at any time captured French citizens or French property. The reaſoning on which this deciſion was founded, and which appears to the underſigned to have been concluſive, will not now be repeated. It has been detailed in ſeveral letters from the Secretary of State of the United States to the Miniſter of France in Philadelphia.—The underſigned will only obſerve that the conſtruction ſuppoſed to be juſt, and for that reaſon actually put upon the article, is believed to be more favourable than the literal conſtruction to the intereſts of France.

Ships of war which have made prizes on this Republic, if they enter the ports of the United States without ſuch prizes, ought indeed, under the letter of the article, to be ordered to depart as ſoon as the fact can have been aſcertained; but the prizes themſelves are permitted to remain in ſafety. By the actual conſtruction, a ſhip of war entering without a prize, is permitted to remain, but all ſhelter is refuſed to a ſhip of war which is accompanied by a prize, and alſo to the prize itſelf. It would ſeldom happen that a ſhip of war not driven in by ſtreſs of weather, or the danger of the ſeas, would wiſh to continue in port longer than the time which would unavoidably be conſumed in aſcertaining the fact of her having made a prize, but it muſt often happen that a prize now excluded from the ports of the United States, would find ſhelter in them if the literal conſtruction of the treaty ſhould be adopted.

This expoſition given by the United States to this article was made known in 1793—France has never ſignified a wiſh that the literal conſtruction throughout ſhould be purſued: This ſtrengthens the opinion entertained by the underſigned, that the rule on this ſubject, ſo early eſtabliſhed by the American government, is conſidered by the Republic as more favourable to its intereſts, than a rule conforming entirely to the letter of the article.

3dly. "The government of the United States has ordered the arreſt of a national corvette * anchored in the port of Philadelphia, and the arreſtation has been extended to the Captain Commandant."

The underſigned beg leave to ſtate the caſe which is the foundation of this complaint. In the ſtatement itſelf they truſt will be found a complete juſtification of the conduct of the United States.

The Caſſius, under the name of "les Jumeaux," was fitted and armed for a veſſel of war in the port of Philadelphia, in violation of a law of the

* *Le Caſſius.*

United States. In December, 1794, having escaped from the port to descend the river, orders were given to the militia of the State of Delaware to intercept her. The attempt was made and failed. The crew of les Jumeaux, which was unexpectedly found to be very numerous, resisted the officers who went on board, manned their cannon and brought them to bear on the cutter in which the militia, about forty in number, were embarked. Their force being inadequate to the enterprize, they retired with an intention to return the next day with a reinforcement. They did so, but les Jumeaux had sailed and gone to sea. The Agent, Mr. Guenet, by whom les Jumeaux had been fitted out, was tried at the circuit court in Philadelphia, convicted of the offence, and received sentence of fine and imprisonment.

Les Jumeaux proceeded to St. Domingo; Samuel B. Davis, a citizen of the United States, there took the command of her, with a commission from the French government. Davis probably sailed from Philadelphia in les Jumeaux, for the purpose of finally taking the command of her. Her name was now changed to "le Cassius," and on a cruize she took a schooner called the William Lindsay, belonging to Messrs. Yard and Ketland of Philadelphia, Mr. Ketland having purchased an interest in her after her sailing. The schooner and her cargo were condemned as prize at St. Domingo. In August, 1795, Captain Davis, commanding the Cassius, came with her to Philadelphia; she was immediately known. Mr. Yard, with a view of obtaining an indemnification for the loss of the schooner and her cargo, libelled the Cassius in the District Court, and caused the captain to be arrested. Soon after, the Supreme Court being in session, Captain Davis' counsel applied for and obtained a prohibition to the District Court to stop its proceedings, by which the suits both against him and le Cassius were defeated. The prohibition was granted on this principle, That the trial of prizes taken without the jurisdiction of the United States, and carried to places within the jurisdiction of France for adjudication, by French vessels, and all questions incidental to it, belong exclusively to the French tribunals; and consequently that its vessels of war, and their officers, are not liable to process of our courts, predicated upon such capture and subsequent proceeding within the jurisdiction of the French government.

Messrs. Yard and Ketland having failed to obtain indemnification in this mode, procured new process, on the information of Mr. Ketland, to be issued from the circuit court, by which le Cassius was attached as a vessel armed and equipped as a ship of war, in the port of Philadelphia, with intent to cruize and commit hostilities against nations with whom the United States were at peace, in violation of the act of Congress prohibiting such armament. Mr. Adet complained that the process was taken out of the circuit court, because, as he alledged, it had no jurisdiction, and that it would be attended with delay, that court sitting but twice a year; whereas the district court, in which it was said the prosecution, if at all permitted, should have been commenced, was always open. Gentlemen of legal knowledge were consulted on the point of jurisdiction in this case, and they were decided in their opinion, that the circuit court had jurisdiction, and exclusively of the district court. The government of the United States had no part in originating this prosecution; and the district attorney, in behalf of the United States, took measures, at each term of the circuit court, to prepare the cause for trial, and on a plea calculated to defeat the prosecution. At length, in October term, 1796, the cause was brought to an hearing. In the course of the argument, the question of jurisdiction presented itself. The court adjourned until next day to consider of it: and the following morning dismissed the suit.

The undersigned may be permitted to ask, whether in a change of situation, placing France precisely in the circumstances of the United States, either the cowvette or her captain would have escaped.

4thly. The refusal to provide the means to execute the consular convention of the 14th November, 1788.

As you have not selected the particular parts of this convention supposed to remain unexecuted, the undersigned must necessarily consider the more definite charges heretofore made on the same subject as being adopted by you.

Your predecessor in office, in his letter to Mr. Monroe of the 19th Ventose 4th year (9th March 1796) complains 1st, That the clause granting to French consuls the right of judging exclusively in disputes between Frenchmen, is become illusory for the want of laws giving them the means of having their decisions executed.

2dly. The right of causing mariners who desert to be arrested, is rendered ineffectual, because the judges charged by the laws with issuing the mandates of arrest have lately required the presentation of the original roll of the crew, in contempt of the 5th article admitting in the tribunals of both powers, copies certified by the consul.

It is then understood to be required,

1st. That the officers of the United States should execute the judgments of the consuls:

2dly. That the judges of the United States should issue mandates of arrest against persons charged with being deserters, without a view of the *original* roll of the crew.

It is very justly observed by Mr. Jefferson, in his letter to Mr. Morris which has been already cited, that, "every nation has, of natural right, entirely and exclusively all the jurisdiction which may be rightfully exercised in the territory it occupies. If it cedes any portion of that jurisdiction to judges appointed by another nation, the limits of their power must depend upon the instrument of cession." The parties to the convention profess its object to be, "to define and establish in a reciprocal and permanent manner the functions and privileges of consuls and vice-consuls."

It is to be expected then, as well from the intention of the convention establishing the tribunal, as from the nature of the tribunal itself, which is a foreign court, constituted by a foreign authority, governed by foreign laws, and amenable for its conduct to a foreign government, that no power is to be implied, and that it possesses no capacity, which is not expressly given to it. To ascertain then the precise extent of the stipulation, let the convention itself be considered.

The first point rests exclusively on the 12th article which is in these words, "All differences and suits between the subjects of his most Christian Majesty in the United States, or between the citizens of the United States within the dominions of the most Christian King, and particularly all disputes relative to the wages and terms of engagement of the crews of the respective vessels, and all differences, of whatever nature they may be, which may arise between the privates of the said crews, or between any of them and their captains, or between the captains of different vessels of their nations, shall be determined by the respective consuls and vice consuls, either by a reference to arbitrators, or by a summary judgment, and without costs. No officer of the country civil or military shall interfere therein, or take any part whatever in the matter: and the appeals from the said consular sentences shall be carried before the tribunals of France or of the United States to whom it may appertain to take cognizance thereof."

In this article no engagement is made to furnish the means of executing consular judgments. If therefore the preceding positions be just, there is an end of the question. But other arguments present themselves in support of the construction contended for by the United States. The consular authority in a foreign country is usually either voluntary or enforced by the laws of the nation to which the consuls belong, and which may bind their own citizens or subjects under penalties to be inflicted on their return, or

otherwiſe. Upon this idea it was ſufficient to ſtipulate a permiſſion of the juriſdiction in excluſion of the courts of the country: on any other idea, it would have been neceſſary to have ſtipulated explicitly and perhaps in detail the manner in which its ſentences ſhould be executed. To accede to the demands of France would be to erect in a foreign country complete courts of juſtice with effectual proceſs to compel the appearance of parties and witneſſes, and to execute their deciſions. And as the tranſactions in commerce could not in the nature of things be confined to foreigners alone, the citizens of the country muſt often be neceſſary witneſſes to thoſe tranſactions, and of courſe rendered amenable to this foreign juriſdiction in their own country; whereas the juriſdiction granted by the article, is only of French conſuls over French citizens in the United States, and reciprocally of American conſuls over the citizens of the United States in France. This would be to extend by implication, the authority of a foreigner over perſons not contemplated by the treaty as ſubject to it. The article declares too, "that no officer of the country, civil or military, ſhall interfere therein, or take any part in the matter." But ſheriffs, marſhals and their deputies, or any other perſons appointed by and acting under the laws of the country, are "officers of the country," and conſequently cannot aid in the execution of conſular deciſions, becauſe they are expreſsly forbidden, "to interfere therein or take any part whatever in the matter."

But was it meant that the laws ſhould give conſuls the power to appoint ſuch executive officers of their own naiton? Should it be conceded that a perſon ſo appointed could not be conſidered as an officer of that nation by virtue of and according to whoſe laws he held his office, ſtill we find no ſuch thing in the convention. On the contrary in the caſe of deſerters from veſſels, mentioned in the 9th article, whom the conſuls are authorized to cauſe to be arreſted, they are expreſsly directed to apply in writing to the "courts, judges, and officers competent" to make the arreſts, meaning the courts, judges and officers of the country where the conſuls reſide. In addition to this, if power could be given to conſuls to appoint officers to execute their deciſions, theſe officers muſt of courſe have their fees of compenſation to be paid by one or other of the parties. But the article giving the juriſdiction declares that the conſular judgments ſhall be "without coſts."

The ſecond complaint is, that the judges of the United States have required the exhibition of the *original* roll of the crew as the teſtimony which would authorize the iſſuing of a mandate, to apprehend a French mariner charged as a deſerter.—The right to require theſe mandates is founded entirely on the 9th article of the conſular convention.

That declares "That the conſuls and vice conſuls ſhall addreſs themſelves, to the courts, judges and officers competent, and ſhall demand the ſaid deſerters in writing, proving by an exhibition of the *regiſters of the veſſel* or *ſhip's roll*, that thoſe men were part of the ſaid crews; and on this demand *ſo proved* (ſaving however where the contrary is proved) the delivery ſhall not be refuſed."

It would be an idle waſte of time to attempt to prove to you, citizen miniſter, that *the regiſter of the veſſel* or *ſhip's roll*, is not a copy of that paper, or that a copy does not ſatisfy a law which peremptorily requires the exhibition of the original. Your predeceſſor has thought proper to refer to the 5th article of that inſtrument; but a ſlight peruſal of that article will convince you, citizen miniſter, that it does not apply to the caſe. When the judges of the United States determined that the mandate of arreſt could not be iſſued on the exhibition of a "copy of the regiſter of the veſſel or ſhip's roll," they did not ſo decide for the purpoſe of giving effect to the ſyſtem of the government, but becauſe the

treaty was clearly underſtood by them poſitively to require the preſentation of the original.

The underſigned regret, citizen miniſter, that your reſearches concerning the United States have not extended to their courts. You would have perceived and admired their purity. You would have perceived that America may repoſe herſelf ſecurely on the integrity of her judges, and your juſtice would have ſpared the inſinuations concerning them which have cloſed this part of your letter.

The underſigned will now conſider what you have ſtated with reſpect to the treaty of amity, commerce and navigation, formed with Great-Britain.

You complain, citizen miniſter, in very ſtrong terms, of the deception alledged to have been practiſed with reſpect to the objects of Mr. Jay's miſſion to London, and alſo of the contents of the treaty which that miſſion produced. You are pleaſed to obſerve that it was then ſaid, that Mr. Jay had been ſent to London, *only* to negociate arrangements relative to the depredations committed on the American commerce by the cruizers of Great-Britain.

By whom, citizen miniſter, was this ſaid? not by the Preſident in his meſſage to the Senate, announcing the nomination of Mr. Jay: nor by the then Secretary of State, in communicating to Mr. Fauchet the ſubject of that miſſion. The documents with reſpect to this aſſertion have been ſtated and have been fully commented on. It has been fully demonſtrated that the American government did not ſeize this occaſion to practiſe a deception ſo unneceſſary, ſo foreign to its well known character, and which could produce only miſchief to itſelf. As you have in no degree weakened the teſtimony which is relied on as diſproving this allegation, or produced any ſort of evidence in ſupport of it, the underſigned cannot but mingle ſome degree of ſurprize with the regrets they feel at ſeeing it repeated, accompanied with the charge of that "diſſimulation," of which all who examine well the conduct of the government of the United States will ſo readily pronounce it to be incapable. You alſo criminate the ſecrecy which attended this negociation. To this complaint, when formerly inſiſted on, it was anſwered, that ſo much of it as was material to this republic was immediately communicated to her miniſter; and that ſhe had no right to enquire further, or to be diſſatisfied that other objects were not diſcloſed; that it is not the practice of France, nor of any other nation, to communicate to others the particular ſubjects of negociation which may be contemplated; and that no nation could be independent, which admitted itſelf to be accountable to another, for the manner in which it might judge proper to regulate its own concerns, on points in which that other was not intereſted, or which was bound to give previous intimation of every article, which might be inſerted in a treaty, formed on the avowed principle of leaving in full force all pre-exiſting engagements. This reaſoning is anſwered only by terming it a "ſophiſm," "an inſidious ſubterfuge." May not any reaſoning, on any ſubject, be anſwered in the ſame manner? But can ſuch an anſwer impair its force? Without doubt, citizen miniſter, the government of the United States, when it informed France that the negociations of Mr. Jay would not in any reſpect weaken its engagements to this republic, would have added, that they might eventually extend to a commercial treaty, if it had been

ſuppoſed that the omiſſion to give ſuch information could really be conſidered as a breach of legitimate obligation, or as an evidence of diminiſhed friendſhip. The information was moſt probably not given, becauſe it was unuſual, and becauſe it could neither be conſidered as proper, as neceſſary, or as material. The underſigned truſt that the painful and unavailing diſcuſſions on this ſubject, rendered ſo unpleaſant by the manner in which it has been treated, will never again be renewed.

Paſſing to the treaty itſelf, you ſay that the ſmall majority by which it was ſanctioned in the two houſes of Congreſs, and the number of reſpectable voices raiſed againſt it in the nation, depoſe honorably in favor of the opinion which the French government has entertained of it. But you muſt be ſenſible, citizen miniſter, that the criterion by which you aſcertain the merits of the inſtrument in queſtion, is by no means infallible, nor can it warrant the inference you draw from it. In a republic like that of the United States, where no individual fears to utter what his judgment or his paſſions may dictate, where an unreſtrained preſs conveys, alike to the public eye the labors of virtue, and the efforts of particular intereſts, no ſubject which agitates and intereſts the public mind can unite the public voice, or entirely eſcape public cenſure. In purſuit of the ſame objects a difference of opinion will ariſe in the pureſt minds, from the different manner in which thoſe objects are viewed; and there are ſituations in which a variety of paſſions combine to ſilence the voice of reaſon, and to betray the ſoundeſt judgments. In ſuch ſituations, if the merit of an inſtrument is to be decided, not by itſelf, but by the approbation or diſapprobation it may experience, it would ſurely be a ſafer rule to take as a guide the deciſion of a majority, however ſmall that majority may be, than to follow the minority. A treaty too may be oppoſed as injurious to the United States, though it ſhould not contain a ſingle clauſe which could prejudice the intereſts of France. It ought not to be ſuppoſed that a treaty would for that reaſon be offenſive to this republic.

Had you been pleaſed to ſtate any objections to this inſtrument drawn from the compact itſelf, the underſigned would have given to thoſe objections the moſt ſerious and reſpectful conſideration. But it is ſuppoſed that you adopt, without adding to, the complaints made by your predeceſſor and by Mr. Adet, when you obſerve, that you will not repeat what they have ſaid. Theſe complaints have been amply diſcuſſed in the memorial the underſigned had the honor to tranſmit you, bearing date 17th of January. It is believed to have been demonſtrated that the ſtipulations complained of do not in the moſt remote degree wound the intereſts of France, affect the pre-exiſting engagements of the United States, or change their ſituation in relation to the belligerant powers. Such, inconteſtably, was and is the opinion of the American government, and in this opinion only would the treaty have been agreed to. As no one of the arguments which have at various times been urged on this ſubject, on the part of the United States, has ever yet been noticed, the underſigned deem unneceſſary any attempt to re-urge or to ſtrengthen them. You ſay that you will content yourſelf "with obſerving ſummarily, that in this treaty every thing having been provided to turn the neutrality of the United States to the diſadvantage of the French Republic, and to the advantage of England; that the federal government having in this act made to Great-Britain conceſſions the moſt unheard

of, the moſt incompatible with the intereſts of the United States, and the moſt derogatory from the alliance which exiſted between the ſaid ſtates and the French Republic, the latter was perfectly free to avail itſelf of the preſervatory means with which it was furniſhed by the laws of nature and of nations, and by its anterior treaty, for the purpoſe of parrying the inconveniences of the treaty of London. Such are the reaſons which have determined the arrêtés of the Directory of which the United States complain, as well as the conduct of its agents in the antilles." But you have not ſhewn a ſingle proviſion, "which turns the neutrality of the United States to the diſadvantage of the French Republic and to the advantage of England." You have not ſhewn a ſingle conceſſion "incompatible with the intereſts of the United States," or "derogatory from their alliance with France."

It is conſidered as having been demonſtrated, that this treaty leaves the neutrality of the United States, with reſpect both to France and England, preciſely in its former ſituation, and that it contains no conceſſions which are either unuſual, or derogatory from their alliance with this republic. But if in forming this judgment the American government has deceived itſelf, ſtill it ought to be remembered that it has ever manifeſted a readineſs to place France on the footing of England, with reſpect to the articles complained of.

You ſuppoſe that the 2nd article of the treaty between France and the United States juſtifies the arrêtés, of which the latter power complains: But that article only entitles either of the contracting parties to a participation of any particular favor in reſpect of commerce or navigation, which might thereafter be granted by the other to other nations, on allowing the ſame compenſation, if the conceſſion was conditional. It has never been pretended to extend to pre-exiſting rights held and exerciſed under the law of nations, and barely recognized by any ſubſequent treaty. If this could be inſiſted on, ſtill it was ſhewn inconteſtibly by the underſigned, that the arrêté particularly complained of, ſo far as it profeſſes to found itſelf on the treaty with England, greatly tranſcends that treaty, and in its moſt noxious article, that requiring a rôle d'équipage, has no relation to it. This all eſſential circumſtance you have not been pleaſed to notice; and it is with infinite regret the underſigned obſerve, that the diſcuſſions at which you hint are to be limited to the abuſes of the principle eſtabliſhed by the arrêté, and not extended to the compatibility of the principle itſelf, with juſtice, the laws of nations, or exiſting treaties.

It is well known that ſuch a diſcuſſion, if indeed the underſigned could be permitted to enter upon it, would avail but little, ſince the vaſt maſs of American property captured by the cruizers, and condemned by the courts of France, has been found in veſſels not furniſhed with a rôle d'équipage.

The underſigned have been minute in their attention to every ſyllable you have uttered on this intereſting ſubject, becauſe it has been often conſidered as having given cauſe of juſt irritation to France, and they are ſincerely deſirous of probing to the bottom every ſubject which may have aſſumed that complexion. Their wiſh is unaffected, to give to every complaint its real value, in order thus to prepare the way for accommodation, by the relinquiſhment of ſuch as are not well founded, and the admiſſion of thoſe which have a real exiſtence.

The third head of your complaints relates to the conduct of the government of the United States since their treaty with England.

You obſerve, that as ſoon as the treaty in queſtion had been put in execution, the government of the United States ſeemed to think itſelf diſpenſed from the obſervance of any meaſures towards this Republic, and you adduce in ſupport of this general obſervation,

1ſt. The refuſal to permit in the ports of the United States the ſale of prizes made by French cruizers.

2ndly. The invectives and calumnies againſt the French government, its principles and its officers, contained in certain journals and pamphlets publiſhed in the United States, &c.

3dly. The ſpeech of the Preſident to Congreſs in May laſt.

1ſt. The government of the United States does not permit the ſale in their ports of prizes made upon England by the cruizers of France.

The fact is admitted. To erect it into an offence, it becomes neceſſary to prove that this meaſure violates either the engagements or the neutrality of the United States. Neither is attempted. To ſhow that it violates neither, had this been rendered neceſſary, would by no means have been deemed an arduous taſk. It will now only briefly be obſerved, that the 17th article of the treaty of commerce of the 6th of February 1778, which alone relates to this ſubject, ſo far from ſtipulating for the ſale of prizes in the ports of either nation, limits itſelf to a declaration, that the captors ſhall have liberty to bring them into port, free from duties, arreſts and ſearches, and to depart with them to the places expreſſed in their commiſſions, thereby evidently contemplating the then exiſting regulations of this nation. France has manifeſted her own opinion on this ſubject, in her treaty with Great Britain of the 26th of September 1786. The 16th article of that treaty declares, "that it ſhall not be lawful for foreign cruizers who ſhall not be the ſubjects of one or the other crown, and who ſhall have a commiſſion from any prince, or ſtate, enemies of the one or the other, to arm their veſſels in the ports of one or the other of the ſaid two kingdoms, *to ſell there what they ſhall have taken, or to change the ſame in any manner whatever.*" In a war with England then, France being neutral, the cruizers of the United States are forbidden to ſell their prizes in the ports of this Republic. The 17th article of the treaty of February 1778, being reciprocal, France has pronounced her deciſion, that it does not give her cruizers a right to ſell their prizes in the ports of America. If this right had been given by the treaty of February 1778, that between the United States and England could not be conſtrued to impair it. Nor is the prohibition a departure from the neutrality of the United States. A nation to violate its neutrality muſt manifeſt a partiality for one of the belligerent powers, muſt accord favours not ſtipulated by pre-exiſting treaties to one, which it refuſes to the other. This is not even alledged in the preſent inſtance. Far from permitting Britiſh cruizers to ſell in the United States prizes they have made on the French, they are not even allowed to bring them into port. A candid conſideration of this ſubject will prove that the withdrawal of a favor, the grant of which manifeſted ſo ſtrongly the attachments of the United States, far from juſtifying the reſentments which have been expreſſed in conſequence of it, can only be attributed to the ſolicitude of the American government to render perfectly unexceptionable its obſer-

vance of that neutrality which it profeſſes to maintain. It has been ſhown unequivocally to have been the opinion of the contracting parties, that the treaty of commerce of the 6th of February 1778, did not give to either, being at war, a right to ſell its prizes in the ports of the other being at peace. It is not pretended that this is one of the rights accruing, without ſpecial ſtipulation, under the laws and uſages of nations.

It is not then a right at all. If granted, it is a voluntary favor. But a voluntary favor eſſential in the proſecution of the war, if granted by a neutral to one belligerent power, and of neceſſity refuſed to the other, affords to that other at leaſt a more plauſible pretext for complaint than has been given by any other act of the government of the United States. What, in ſuch a ſituation, would have been the language of France? Would this Republic permit a neutral nation, not bound thereto by any obligation whatever, to allow in its ports as a voluntary favor the ſale of prizes made on French citizens, while the ſame favor was of neceſſity denied to the cruizers of France.

It is believed that ſuch an uſe of neutrality would not be permitted, and the underſigned felicitate themſelves and their country that the government they repreſent has never intentionally given to this republic any cauſe of diſſatisfaction, as ſerious as this would have been. You will not fail to obſerve, citizen miniſter, that this heavy accuſation, when analyſed, is nothing more than the refuſal of a mere favor on the part of the American government, the grant of which might have been dangerous to itſelf, might have drawn it from that neutral ſtation which it is its duty to obſerve, and which favor France had previouſly, in the moſt explicit terms, declared its determination not to grant under ſimilar circumſtances to the United States.

2dly. Your ſecond allegation is, "that the journals known to be indirectly under the controul of the cabinet have redoubled their invectives and calumnies againſt the Republic, its magiſtrates and its envoys; and that pamphlets openly paid for by the miniſter of Great-Britain have re-produced, under every form, thoſe inſults and calumnies without having ever drawn the attention of the government to a ſtate of things ſo ſcandalous, and which it might have repreſſed."

The genius of the conſtitution, and the opinions of the people of the United States, cannot be overruled by thoſe who adminiſter the government. Among thoſe principles deemed ſacred in America; among thoſe ſacred rights conſidered as forming the bulwark of their liberty, which the government contemplates with awful reverence, and would approach only with the moſt cautious circumſpection, there is no one of which the importance is more deeply impreſſed on the public mind than the liberty of the preſs. That this liberty is often carried to exceſs, that it has ſometimes degenerated into licentiouſneſs, is ſeen and lamented; but the remedy has not yet been diſcovered. Perhaps it is an evil inſeparable from the good with which it is allied: perhaps it is a ſhoot which cannot be ſtripped from the ſtalk, without wounding vitally the plant from which it is torn. However deſirable thoſe meaſures might be which might correct without enſlaving the preſs, they have never yet been deviſed in America. No regulations exiſt which enable the government to ſuppreſs whatever calumnies or invectives any individual may chuſe to offer to the public eye; or to puniſh ſuch calumnies and

invectives, otherwiſe than by a legal proſecution in courts which are alike open to all who conſider themſelves as injured. Without doubt this abuſe of a valuable privilege is matter of peculiar regret when it is extended to the government of a foreign nation. The underſigned are perſuaded, it never has been ſo extended with the approbation of the government of the United States. Diſcuſſions reſpecting the conduct of foreign powers, eſpecially on points reſpecting the rights and intereſts of America, are unavoidably made in a nation where public meaſures are the reſults of public opinion; and certainly do not furniſh cauſe of reproach; but it is believed that calumny and invective have never been ſubſtituted for the manly reaſoning of an enlightened and injured people, without giving pain to thoſe who adminiſter the affairs of the Union. Certainly this offence, if it be deemed by France of ſufficient magnitude to be worthy of notice, has not been confined to this Republic. It has been ſtill more profuſely laviſhed on its enemies, and has even been beſtowed with an unſparing hand on the Federal Government itſelf. Nothing can be more notorious than the calumnies and invectives, with which the wiſeſt meaſures and the moſt virtuous characters of the United States have been purſued and traduced. It is a calamity incident to the nature of liberty, and which can produce no ſerious evil to France. It is a calamity occaſioned neither by the direct nor indirect influence of the American government. In fact that government is believed to exerciſe no influence over any preſs. You muſt be ſenſible, citizen miniſter, with how much truth the ſame complaint might be urged on the part of the United States. You muſt know well, what degrading and unworthy calumnies againſt their government, its principles and its officers, have been publiſhed to the world by French journaliſts and in French pamphlets: That government has even been charged with betraying the beſt intereſts of the nation, with having put itſelf under the guidance of—nay more, with having ſold itſelf to a foreign court. But theſe calumnies, atrocious as they are, have never conſtituted a ſubject of complaint againſt France. Had not other cauſes, infinitely more ſerious and weighty, interrupted the harmony of the two Republics, it would ſtill have remained unimpaired, and the miſſion of the underſigned would never have been rendered neceſſary.

3dly. You complain of the ſpeech of the Preſident made to Congreſs in May laſt. It denounces, you ſay, the Executive Directory, as ſearching to propagate anarchy and diviſion in the United States. The conſtitution of the United States impoſes on the Preſident this important duty: "He ſhall from time to time, give to the Congreſs information of the ſtate of the union." It having been deemed proper to recall the miniſter from the United States to this republic, and to replace him by a citizen, the objects of whoſe miſſion, as expreſſed in his letters of credence, were "to maintain that good underſtanding, which, from the commencement of the alliance, had ſubſiſted between the two nations; and to efface unfavorable impreſſions, baniſh ſuſpicions, and to reſtore that cordiality which was at once the evidence and pledge of a friendly union." The Preſident of the Directory addreſſed the recalled miniſter in the following terms: "In preſenting to-day to the Executive Directory your letters of recall, you give to Europe a ſtrange ſpectacle. France, rich in her liberty, ſurrounded with the train of her victories, ſtrong in the eſteem of her allies, will not abaſe herſelf by calculating the conſequences of the condeſcentions of the American government to the ſuggeſtions of its ancient tyrants. The French Republic hopes, moreover, that the ſucceſſors of Columbus, Raleigh, and Penn, always proud of their liberty, will never forget that they owe it to France. They

will weigh in their wiſdom the magnanimous good will of the French people with the crafty careſſes of certain perfidious perſons, who meditate to bring them back to their ancient ſlavery. Aſſure, Mr. Miniſter, the good American people, that like them we adore liberty; that they will always have our eſteem, and that they will find in the French people that republican generoſity, which knows as well how to grant peace as to cauſe its ſovereignty to be reſpected."

The change of a Miniſter is an ordinary act for which no government is accountable to another, and which has not heretofore been "a ſtrange ſpectacle" in France, or in any other part of Europe. It appears to be a meaſure not of itſelf calculated to draw on the government making ſuch change, the ſtrictures or the reſentments of the nation to which the Miniſter is deputed. Such an effect, produced by ſo inadequate a cauſe, could not fail to command attention, while it excited ſurprize.

This official ſpeech, addreſſed by the government of France to that of the United States, through its Miniſter, charges that government with condeſcenſions to the ſuggeſtions of its ancient tyrants, ſpeaks of the crafty careſſes of certain perfidious perſons who meditate to bring back the ſucceſſors of Columbus, Raleigh and Penn to their ancient ſlavery, and deſires the miniſter to aſſure, not his *government*, but the *good people* of America, that they will always have the eſteem of France, and that they will find in the French people, that republican generoſity which knows as well how to grant peace as to cauſe its ſovereignty to be reſpected.

That a miniſter ſhould carry any aſſurances from a foreign government to the people of his nation, is as remarkable as the difference between the manner in which his government and his people are addreſſed. His government are charged with condeſcenſion to the ſuggeſtions of the ancient tyrants of his country, but the people are conſidered as loving liberty, and they are to be aſſured of the perpetual eſteem of France. This eſteem they are to weigh againſt the crafty careſſes of thoſe perfidious perſons who meditate to bring them back to their former ſlavery.

When this ſpeech, thus addreſſed directly to the government and people of the United States, in the face of Europe and the world, came to be conſidered in connexion with other meaſures; when it came to be conſidered in connection with the wide ſpreading devaſtation to which their commerce was ſubjected, with the cruel ſeverities practiſed on their ſeamen, with the recall of the Miniſter of France from the United States, and the very extraordinary manner in which that recall was ſignified by him both to the government and people, with the refuſal even to hear the Meſſenger of Peace, deputed from the United States for the ſole purpoſe of conciliation; it could not fail to make on the American mind a deep and a ſerious impreſſion. It was conſidered as a fact too important to be held from the Congreſs, by that department of the government, which is charged with the duties of maintaining its intercourſe with foreign nations, and of making communications to the legiſlature of the Union. The Preſident, therefore, did communicate it in the following words: "With this conduct of the French government it will be proper to take into view the public audience given to the late Miniſter of the United States on his taking leave of the Executive Directory. The ſpeech of the Preſident diſcloſes ſentiments more alarming than the refuſal of a Miniſter, becauſe more dangerous to our independence and union, and

at the ſame time ſtudiouſly marked with indignities towards the government of the United States. It evinces a diſpoſition to ſeparate the people of the United States from the government; to perſuade them that they have different affections, principles and intereſts from thoſe of their fellow-citizens, whom they themſelves have choſen to manage their common concerns; and thus to produce diviſions fatal to our peace. Such attempts ought to be repelled with a deciſion which ſhall convince France and the world, that we are not a degraded people, humiliated under a colonial ſpirit of fear and ſenſe of inferiority, fitted to be the miſerable inſtruments of foreign influence, and regardleſs of national honor, character and intereſt.

"I ſhould have been happy to have thrown a veil over theſe tranſactions, if it had been poſſible to conceal them; but they have paſſed on the great theatre of the world, in the face of all Europe and America, and with ſuch circumſtances of publicity and ſolemnity, that they cannot be diſguiſed, and will not ſoon be forgotten; they have inflicted a wound in the American breaſt. It is my ſincere deſire, however, that it may be healed."

It is hoped that this communication will be viewed in its true light, that it will no longer be conſidered as a denunciation of the Executive Directory, but as the ſtatement of an all-important fact by one Department of the American government to another, the making of which was enjoined by duties of the higheſt obligation.

The underſigned have now, Citizen Miniſter, paſſed through the complaints you urge againſt the government of the United States. They have endeavoured to conſider thoſe complaints impartially, and to weigh them in the ſcales of juſtice and of truth. If any of them be well founded, France herſelf could not demand more readily, than America would make, reparation for the injury ſuſtained. The Preſident of the United States has ſaid, "If we have committed errors, and theſe can be demonſtrated, we ſhall be willing to correct them; if we have done injuries, we ſhall be willing, on conviction, to redreſs them." Theſe diſpoſitions on the part of the government have been felt in all their force by the underſigned, and have conſtantly regulated their conduct.

The underſigned will not reſume, Citizen Miniſter, the painful taſk of re-urging the multiplied injuries which have been accumulated on their country, and which have been in ſome degree detailed in their Memorial of the 17th January laſt. They cannot, however, decline to remonſtrate againſt a meaſure which has been announced ſince that date. The Legiſlative Council of the French Republic have decreed that,

1ſt. The condition of ſhips, in every thing which concerns their character as neutrals or enemies, ſhall be determined by their cargo; conſequently every veſſel found at ſea, laden in whole or in part with merchandize coming out of England, or its poſſeſſions, ſhall be declared good prize, whoever may be the proprietors of ſuch commodities or merchandize.

2dly. No foreign veſſel, which in the courſe of its voyage ſhall have entered into an Engliſh port, ſhall be admitted into any port of the French Republic, but in the caſe of neceſſity; in which caſe ſuch veſſel ſhall be obliged to depart from ſuch port ſo ſoon as the cauſe of entry ſhall have ceaſed.

This decree too deeply affects the intereſts of the United States to re-

main unattended to by their Miniſters. They pray you, therefore, Citizen Miniſter, to receive their reſpectful repreſentations concerning it.

The object of the decree, is to cut off all direct intercourſe between neutrals and Great-Britain or its poſſeſſions, and to prevent the acquiſition, even by circuitous commerce, of thoſe articles which come from England or its dominions.

The right of one nation to exchange with another the ſurplus produce of its labour, for thoſe articles which may ſupply its wants or adminiſter to its comfort, is too eſſential to have been ever claſſed among thoſe admitted to be in any degree doubtful. It is a right in ceding which a nation would cede the privilege of regulating its own intereſts and providing for its own welfare. When any two nations ſhall chuſe to make war on each other, they have never been conſidered, nor can they be conſidered as thereby authorizing themſelves to impair the eſſential rights of thoſe who may chuſe to remain at peace. Conſequently theſe rights, the free exerciſe of which is eſſential to its intereſts and welfare, muſt be retained by a neutral power, whatever nations may be involved in a war.

The right of a belligerent to reſtrain a neutral from aſſiſting his enemy by ſupplying him with thoſe articles which are defined as contraband, has been univerſally ſubmitted to; but to cut off all intercourſe between neutrals and an enemy, to declare that any ſingle article which may have come from the poſſeſſions of an enemy, whoever may be its owner, ſhall of itſelf be ſufficient to condemn both veſſel and cargo, is to exerciſe a control over the conduct of neutrals which war can never give, and which is alike incompatible with their dignity and their welfare.

The rights of belligerents are the ſame. If this might be exerciſed by one, ſo might it be exerciſed by every other. If it might be exerciſed in the preſent, ſo it might be exerciſed in every future war. This decree is, therefore, on the part of France, the practical aſſertion of a principle which would deſtroy all direct or circuitous commerce between belligerent and neutral powers, which would often interrupt the buſineſs of a large portion of the world, and withdraw or change the employment of a very conſiderable portion of the human race.

This is not all. It is the exerciſe of a power which war is not admitted to give, and which, therefore, may be aſſumed in peace as well as war.

It eſſentially affects the internal œconomy of nations, and deranges that courſe of induſtry which they have a right to purſue, and on which their proſperity depends.

To acquieſce, therefore, in the exiſting ſtate of things, under a principle ſo extenſive and ſo pernicious, is to eſtabliſh a precedent for national degradation which can never ceaſe to apply, and which will authorize any meaſures which power may be diſpoſed to practiſe.

France, therefore, will perceive that neutral governments, whatever may be their diſpoſitions towards this Republic, are impelled by duties of the higheſt obligation, to remonſtrate againſt a decree, which at the ſame time invades their intereſts and their independence, which takes from them the profits of an honeſt and lawful induſtry, as well as the inеſtimable privilege of conducting their own affairs as their own judgments may direct.

It is hoped that the remonſtrances of the United States on this ſubject will derive additional force from their ſubſiſting engagements with France, and from a ſituation peculiar to themſelves.

The twenty-third article of the Treaty of Amity and Commerce of the 6th of February, 1778, is in theſe words: "It ſhall be lawful for all and ſingular the ſubjects of the Moſt Chriſtian King, and the citizens, people and inhabitants of the ſaid United States, to ſail with their ſhips, with all manner of liberty and ſecurity, no diſtinction being made who are the proprietors of the merchandizes laden thereon, from any port to the places of thoſe who now are, or hereafter ſhall be at enmity with the Moſt Chriſtian King or the United States. It ſhall likewiſe be lawful for the ſubjects and inhabitants aforeſaid, to ſail with the ſhips and merchandizes afore-mentioned, and to trade with the ſame liberty and ſecurity from the places, ports and havens of thoſe who are enemies of both or either party, without any oppoſition or diſturbance whatſoever, not only directly from the places of the enemy before-mentioned to neutral places, but alſo from one place belonging to an enemy, to another place belonging to an enemy, whether they be under the juriſdiction of the ſame Prince, or under ſeveral. And it is hereby ſtipulated, that free ſhips ſhall alſo give a freedom to goods, and that every thing ſhall be deemed to be free and exempt which ſhall be found on board the ſhips belonging to the ſubjects of either of the confederates, although the whole lading, or any part thereof, ſhould appertain to the enemies of either; contraband goods being always excepted. It is alſo agreed, in like manner, that the ſame liberty be extended to perſons who are on board a free ſhip, with this effect, that although they be enemies to both or either party, they are not to be taken out of that free ſhip, unleſs they are ſoldiers, and in actual ſervice of the enemy."

The two nations contemplating and providing for the caſe when one may be at war, and the other at peace, ſolemnly ſtipulate and pledge themſelves to each other, that in ſuch an event the ſubjects or citizens of the party at peace may freely trade with the enemy of the other, may freely ſail with their ſhips in all manner of ſecurity, to and from any port or place belonging to ſuch enemy. Not only goods coming from the hoſtile territory, but the very goods of the enemy himſelf may be carried with ſafety in the veſſels of either of the contracting parties.

You will perceive, Citizen Miniſter, without requiring the underſigned to execute the painful taſk of drawing the contraſt, how openly and entirely the Decree of the Councils oppoſes itſelf to the Treaty between France and the United States.

In addition to the hitherto unceded rights of a ſovereign and independent nation, in addition to the right ſtipulated by compact, the underſigned will reſpectfully ſubmit other conſiderations growing out of the peculiar ſituation of the United States, manifeſting the particular hardſhips the decree complained of muſt impoſe on them.

In poſſeſſion of a rich, extenſive and unſettled country, the labour of the United States is not yet ſufficient for the full cultivation of its ſoil, and conſequently but a very ſmall portion of it can have been applied to manufactures. Articles of the firſt neceſſity and comfort are imported in exchange for proviſions and for the raw materials which are the growth of the country, and which its inhabitants are accuſtomed to raiſe.

It is at any time extremely difficult, nor is it practicable without great loſs, to change ſuddenly the habits of a whole people, and that courſe of induſtry in which their population and their real intereſts have engaged them. An agricultural cannot ſuddenly, and at will, become a ma-

nufacturing people; the United States cannot inſtantaneouſly, on the mere paſſing of a decree, transfer, to the manufacture of articles heretofore imported, ſuch a portion of their labour as will at the ſame time furniſh a market for the ſurplus commodities, and a ſupply for the wants of the cultivator of the ſoil. It is, therefore, ſcarcely poſſible for them to ſurrender their foreign commerce.

Independent of the right they poſſeſs in common with others to ſearch for and chuſe the beſt markets, it is believed that the ſupplies they need could with difficulty, in the actual ſtate of the world, be completely furniſhed, without the aid of England and its poſſeſſions. It is not pretended that France manufactures at preſent, for foreign conſumption, nor do the underſigned ſuppoſe that there exiſts a market where the citizens of the United States can obtain in exchange the articles they need and are accuſtomed to conſume, if thoſe coming out of England and its poſſeſſions be entirely excluded. A variety of other conſiderations, and eſpecially the difficulties individuals muſt encounter in ſuddenly breaking old and forming new connexions, in forcing all their commerce into channels not yet well explored, in trading without a ſufficient capitol to countries where they have no credit, combine to render almoſt impoſſible an immediate diſſolution of commercial intercourſe between the United States and Great-Britain.

If then the decree complained of ſhall be executed on American veſſels, it can only increaſe grievances already but too conſiderable, and transfer the carriage of Engliſh manufactures, for American conſumption, from their own to Britiſh bottoms, ſailing under the protection of a convoy. Inſtead of wounding England, it will probably aggrandize its marine, by ſacrificing the remnant of that of the United States, and by deſtroying that ſyſtem of policy by which they have heretofore ſought to give their own veſſels that portion of their own carrying trade, which would otherwiſe be enjoyed by Britiſh merchants.

You have made ſome general animadverſions on the government of the United States, which the underſigned feel themſelves bound briefly to notice.

You have charged that government with giving inſtructions not in the ſincere intention of arriving at pacific reſults, and yet the underſigned have offered to change thoſe clauſes in the treaty of 1778, which have become inconvenient to France, and to repair any injuries which may have been committed.

You have charged that government with omitting nothing to prolong and augment the miſunderſtanding between the two Republics; but does not the fact, that the underſigned are now in Paris, furniſh perſuaſive evidence to the contrary?

You have charged it with ſearching to juſtify, by deceitful appearances, the prejudices with which it ſurrounds at pleaſure the name of the Republic, and the ſyſtem of exaſperation and ſeparation purſued in this reſpect with the ſtrangeſt obſtinacy. But has not this Republic, in terms the moſt cordial, been again and again intreated to enter into a candid inveſtigation of the mutual complaints of the two nations? Have not theſe entreaties been unnoticed, whilſt the Miniſters deputed to make them have remained unaccredited?

You have charged it with wiſhing to ſeize the firſt favorable occaſion for conſummating an intimate union with a power, towards which a

devotion and a partiality are profeſſed which have long conſtituted the principle of the conduct of the Federal government; but whilſt no devotion or partiality has been expreſſed for any nation except France, have not the United States made, and are they not ſtill making the moſt extraordinary efforts to reſtore the broken relations between the two Republics?

In a letter diſcuſſing the important intereſts of two great nations, the underſigned are unwilling to introduce what relates perſonally to themſelves.

This unwiſhed for taſk has been rendered a duty, by aſcribing to them opinions and relations which exiſt in imagination only, and by adducing thoſe ſuppoſed opinions and relations as proofs of an indiſpoſition, on the part of the government which has deputed them, towards that accommodation which has been ſought ſo unremittingly through all thoſe difficulties and impediments with which the purſuit has been embarraſſed.

You are pleaſed to add, that theſe intentions are ſo little diſguiſed, "that nothing ſeems to have been neglected at Philadelphia, to manifeſt them to every eye. It is probably with this view that it has been judged proper to ſend to the French Republic, perſons whoſe opinions and relations are too well known to hope from them diſpoſitions ſincerely conciliatory."

The opinions and relations of the underſigned are purely American, unmixed with any particle of foreign tint. If they poſſeſs a quality on which they pride themſelves, it is an attachment to the happineſs and welfare of their country; if they could at will ſelect the means of manifeſting that attachment, it would be by effecting a ſincere and real accommodation between France and the United States, on principles promoting the intereſts of both, and conſiſtent with the Independence of the latter.

It requires no aſſurance to convince, that every real American muſt wiſh ſincerely to extricate his country from the ills it ſuffers, and from the greater ills with which it is threatened; but all who love liberty, muſt admit that it does not exiſt in a nation which cannot exerciſe the right of maintaining its neutrality. If "opinions and relations," ſuch as theſe, are incompatible with "diſpoſitions ſincerely conciliatory," then indeed has the Federal government choſen unfit inſtruments for the expreſſion of its pacific diſpoſition.

You contraſt the conduct obſerved by the United States, under analagous circumſtances, towards the cabinet of St. James, with that which is obſerved towards this Republic. You ſay, that on that occaſion, there was a ſolicitude to ſend to London, Miniſters well known to poſſeſs ſentiments conformable to the objects of their miſſion; that the Republic has a right to count upon a ſimilar deference; and that if a like attention has not been obſerved with reſpect to it, it is too probable that it muſt be attributed to the views already indicated.

If, unfortunately, the caſes ſhall exhibit a contraſt, it is not to be found in the characters the United States have thought proper to employ, or in the conduct of their government, otherwiſe than by the ſuperior attention manifeſted towards this Republic, and never ſhewn to any other nation, in deputing to it, with ample powers, three Envoys Extraordinary and Miniſters Plenipotentiary from the three great diviſions

of the United States. The Miniſters ſent to the Cabinet of St. James greatly deſerved the confidence of their country; but they did not poſſeſs ſentiments more conformable to the objects of their miſſion than thoſe deputed to this Republic. They did not wiſh more ardently to effect reconciliation; nor is it believed that any perſons who could have been deputed to that Cabinet, would have ſubmitted to greater ſacrifices in order to obtain it. Had their application for compenſation for paſt injuries, and ſecurity againſt their future commiſſion, been only met by requiſitions, a compliance with which would involve their nation in ills of which war perhaps might not be the moſt conſiderable; had all attempts to remove unfavorable impreſſions failed, and all offers to make explanations been rejected; can it be believed, that other Miniſters (the firſt having been ordered out of the nation) would have waited ſix months unaccredited, ſoliciting permiſſion to diſplay the upright principles on which their government had acted, and the amicable ſentiments by which it was animated?

The underſigned are induced, Citizen Miniſter, to pray your attention to theſe plain truths, from a conviction that they manifeſt unequivocally the friendly temper of the Federal government, and the extreme reluctance with which the hope of an accommodation with France would be relinquiſhed.

The underſigned obſerve, with infinite regret, that the diſpoſition manifeſted to treat with the Miniſter who might be ſelected by this government, is not accompanied with any aſſurances of receding from thoſe demands of money, heretofore made the conſiderations on which alone a ceſſation of hoſtility on American commerce could be obtained, to which the underſigned have not the power to accede, with which the United States would find it extremely difficult to comply, and a compliance with which would violate that faith pledged for the obſervance of neutrality, and would involve them in a diſaſtrous war with which they have no concern. Nor do you anſwer to the applications, which have been made for compenſation to the citizens of the United States for property which ſhall be proved to have been taken contrary to the law of nations and exiſting treaties, otherwiſe than that you are willing to diſcuſs caſes where there has been a departure from certain principles, which principles, in fact, involve almoſt every caſe.

You have ſignified, Citizen Miniſter, that the Executive Directory is diſpoſed to treat with one of the Envoys, and you hope that this overture will not be attended, on the part of the underſigned, with any ſerious difficulty. Every propoſition of the Executive Directory is conſidered with the moſt minute and reſpectful attention.

The reſult of a deliberation on this point is, that no one of the underſigned is authorized to take upon himſelf a negociation evidently entruſted by the tenor of their powers and inſtructions to the whole: Nor are there any two of them who can propoſe to withdraw themſelves from the taſk committed to them by their government, while there remains a poſſibility of performing it.

It is hoped that the prejudices, ſaid to have been conceived againſt the Miniſters of the United States, will be diſſipated by the truths they have ſtated.

If in this hope they ſhall be diſappointed, and it ſhould be the will of the Directory to order paſſports for the whole or any number of them,

you will pleaſe to accompany ſuch paſſports with letters of ſafe conduct, which will entirely protect from the cruizers of France, the veſſels in which they may reſpectively ſail, and give to their perſons, ſuite and property, that perfect ſecurity to which the laws and uſages of nations entitle them.

They pray you, Citizen Miniſter, to receive the renewal of their aſſurances of profound reſpect and conſideration.

(Signed) CHARLES COTESWORTH PINCKNEY,
JOHN MARSHALL,
E. GERRY.

A true copy.

HENRY M. RUTLEDGE, *Secretary.*

[*French Original of* M. TALLEYRAND'S *Letter to the Envoys.*]

Le Miniſtre des Relations Exterieurs de la République Françaiſe, à Meſſieurs CHARLES COTESWORTH PINCKNEY, J. MARSHALL, *et* E. GERRY.

Le ſouſſigné Miniſtre des Relations Exterieures de la République Françaiſe, a mis ſous les yeux du Directoire Executif, le Memoire que les Commiſſaires et Envoyés Extraordinaires des Etats Unis de l'Amerique lui ont fait parvenir ſous la date du 28 Nivôſe dernier, et c'eſt en execution des intentions du Directoire, qui deſire convaincre les Etats Unis des veritables diſpoſitions qui l'animent à leur egard, que le ſouſſigné communique aux Commiſſaires et Envoyés Extraordinaires les obſervations ſuivantes.

La premiere choſe que a dû frapper dans le Memoire des Commiſſaires et Envoyés Extraordinaires, c'eſt la methode qu'ils ont jugé à-propos de ſuivre dans l'expoſition et dans la diſcuſſion des points qui ſont en conteſtation entre les deux Etats. Le Directoire Executif, animé des diſpoſitions le plus conciliantes, et pénètré des intèrêts qui doivent rapprocher les deux nations, autant qu' empreſſé de concourir au voeu bien connu des deux peuples pour le maintien d'une intimité parfaite, avait lieu d'attendre que les Envoyés apporteraient, au nom de leur Gouvernement, des diſpoſitions entierement analogues et un eſprit prêparé d'avance par les mêmes vues et par les mêmes deſirs. Quel a dû être, d'après cela, l'étonnement du Directoire Executif, quand le ſouſſigné lui a rendu compte d'un Memoire, dans lequel les Commiſſaires et Envoyés Extraordinaires, en renverſant l'ordre connu des faits, ſe ſont attachés à paſſer, en quelque ſorte, ſous ſilence, les juſtes motifs de plainte du Gouvernement Françaiſe, et a dèguiſer la vèritable cauſe de la mèſintelligence qui ſe prolonge entre les deux Républiques! En ſorte qu'il paraitrait, d'après cet expoſé, auſſi partial, qu'infidèle, que la République Françaiſe n'a aucun grief rèel à faire valoir, aucune reparation legitime à exiger; tandis que les Etats Unis ſeroient les ſeuls admiſſibles à ſe plaindre, les ſeuls autoriſés à rèclamer des ſatiſfactions.

Les intentions, qui ont fait prèferer cette marche à toute autre, n'ont point èchappé au Directoire Executif ; et, c'eſt autant par un juſte ſentiment de la dignité de la République dont les interêts lui ſont confiés, que pour ſe premunir eventuellement contre les vues qu'on pourrait ſe propoſer par une ſemblable conduite, qu'il a chargé le ſouſſigné de faire diſparaître ces vaines apparences, qui ne peuvent en effet ſubſiſter à l'inſtant que les faits auront été retablis, et que les véritables intentions du Directoire auront été ſolemnellement conſtatées, en oppoſition avec celles qu'on ne pourrait lui attribuer que gratuitement et en ſe prevalant de ſon ſilence.

Une vérité inconteſtable, et qui ſe trouve entierement écarté dans le Memoire des Commiſſaires et Envoyés Extraordinaires, c'eſt que l'anteriorité des griefs et des plaintes appartient à la République Françaiſe ; que ces plaintes et ces griefs etaient auſſi réels que nombreux, bien avant que les Etats Unis euſſent la moindre reclamation fondée à élever et par conſéquent avant que tous les faits ſur leſquels les Envoyés appuient avec tant de details, euſſent éxiſté.

Une autre verité non moins inconteſtable, c'eſt que tous les griefs que preſentent les Commiſſaires et Envoyés Extraordinaires, ſauf des exceptions que le ſouſſigné etait prêt à diſcuter, ſont une conſéquence neceſſaire des meſures que la conduite antérieure des Etats Unis avait juſtifiées de la part de la République Françaiſe, et que ſes traités avec les dits Etats Unis autoriſaient dans certains cas, qu'il dependait du Gouvernement général de l'Union de faire ou de ne pas faire exiſter.

Il ſerait hors de propos d'entrer dans l'enumeration des plaintes que le Gouvernement Françaiſe avait lieu d'élever contre le Gouvernement Fédéral, depuis le commencement de la guerre ſuſcitée à la République Françaiſe par une puiſſance jaloux de ſa proſpérité et de ſa régénération. Ces details ſont conſignés dans les offices nombreux paſſés à Philadelphie par les Miniſtres de la République, et ils ont été recapitulés par le prédeceſſeur du ſouſſigné, dans une note, addreſſé ſous la date du 19me Ventôſe, an 4me. au Miniſtre Plénipotentiaire des Etats Unis à Paris, et expoſés très en detail dans l'office paſſé à Philadelphie par le Citoyen Adet, le 25 Brumaire, de l'an 5me. On ſe plaignait dans la note ci deſſus de l'inéxécution des traités conclus en 1778, dans les ſeules clauſes où la France eut ſtipulé quelques avantages en retour des efforts qu'elle s'était engagée à faire pour l'utilité commune ; et l'on y réclamait contre des inſultes faites à la dignité de la République Françaiſe.

Dès le commencement de la guerre en effet les tribunaux Americains ont prétendu au droit de prendre connaiſance de la validité des priſes, menées dans les ports des Etats Unis par des croiſeurs Français. Il eſt réſulté de cette prétention contraire à la lettre du traité de commerce de 1778, que les proprietés des citoyens de la République ont été injuſtement détenues, et que l'on a totalement decouragé la courſe Françaiſe, dans les mers de l'Amerique, contre un ennemi qui en feſait revivre les lois de plus barbare, pour detruire et inſulter le commerce Americain ſous les yeux mêmes du Gouvernement Fédéral.

On ne ſe bornait pas à favoriſer les ennemis de la République Françaiſe dans un point auſſi eſſentiel, point ſur lequel il pouvait à la verité ſurvenir quelques abus, mais que le Gouvernement Français ſe montrait diſpoſé à prevenir ; on allait encore juſqu' à permettre aux vaiſſeaux ennemis contre le ſens textuel du traité ci-deſſus, relâcher dans les ports

des Etats Unis après avoir capturé des propriétés ou *des bâtimens appartenans à des citoyens Français.* Bientôt après on arrêta par ordre du gouvernement une corvette nationale mouillée dans le port de Philadelphie,* et cette arreſtation s'étendit enſuite juſqu' au capitaine commandant. Les tribunaux Americains ſe ſaiſirent de même de la perſonne de l'Ex-Gouverneur de la Guadaloupe, pour faits de ſon adminiſtration, et il a fallu que le Directoire Exécutif menaçat d'uſer de repréſailles pour faire prendre à cette affaire le cours que le droit des gens lui aſſignait.

Pendant tout l'eſpace de tems qu'on vient de parcourir, le gouvernement Français fit des vains efforts pour determiner les gouvernement des Etats Unis à procurer aux agens de la République les moyens legaux de faire éxécuter les clauſes de la convention conſulaire de 1788, qui accordaient à notre navigation et à notre commerce des priviléges dont le principe était conſacré par les traités de 1778; et jamais on ne peut obtenir à cet égard que des renvois infructueux aux tribuneaux. En général, toutes les matieres qui, avec des intentions ſincerement conciliantes, auraient pu ſe terminer par voie de négociation étaient habituellement déférées aux autorités judiciaires: et celles-ci, ſoit qu'elles fuſſent ou non ſoumiſes à une influence ſecrette, privaient, en derniere analyſe, la République des droits fondés ſur les traités, ou bien en modifaient l'exerciſe ſelon qu'il convenait au ſyſtême du gouvernement.

Tel etait l'etat véritable des choſes au mois d'Août 1795, époque où la ratification d'un traité d'amitié, de navigation et de commerce, ſigné à Londres dans le mois de Novembre précédent, entre les Etats Unis et la Grande Bretagne vint mettre le comble aux griefs de la République.

Quelle avait été juſques là la conduite du gouvernement Français envers les Etats Unis? Le ſouſſigné, pour en faire voir le contraſte avec celle des dits Etats, ſe contentera de rapeller des faites qui ne peuvent toutesfois avoir été oubliés.

Occupée des ſoins les plus preſſans en Europe, la République n'avait porté ſes regards ſur les Etats Unis que pour leur donner conſtamment des preuves nouvelles de l'amitié et de l'interêt les plus ſinceres, et elle laiſſait à ſes agens à diſcuter à l'amiable avec le gouvernement fédéral les conteſtations dont on vient de tracer une eſquiſſe, et qui, ſi elles euſſent été traitées de part et d'autre avec un veritable eſprit de conciliation, n'auraient pu alterer la bonne intelligence au point où elle l'eſt en ce moment. La République était à peine conſtituée qu'on envoya un Miniſtre à Philadelphie, dont la premiere démarche fut de declarer aux Etats Unis, qu'on ne les preſſerait point d'executer les clauſes defenſives du traité d'alliance, quoique les circonſtances repreſentaſſent de la maniere la moins équivoque, le *caſus fœderis.* Loin d'apprecier cette conduite, le gouvernement Americain la reçut comme la reconnaiſſance d'un droit, et c'eſt dans cet eſprit encore que les Commiſſaires et Envoyés Extraordinaires ont abordé cette queſtion au commencement de leur Memoire. Le Miniſtre de la République à Philadelphie, ayant donné de l'inquietude au gouvernement Americain, fut rappellé avec empreſſement et même avec des circonſtances extrêmement rigoureuſes. Son ſucceſſeur porta aux Etats Unis toutes les reparations deſirables ainſi que les declarations les plus amicables et les plus ſincere. Rien n'egaſe l'eſprit de conciliation, ou plûtôt de condeſcendance, dans lequel ſes

* *Arreſtation du Caſſius, Août* 1795.

instructions étaient rédigées relativement à tous les points qui avaient causé quelques inquiétudes au gouvernement Fédéral. Le Cit. Adet renforça encore, au nom de la Convention Nationale, ces expressions de bienveillance; et cette assemblée elle-même accueillit, avec l'effusion d'une confiance et d'une sécurité sans bornes, le nouveau Ministre que le Président des Etats Unis envoya auprès d'elle, avec l'intention apparente de correspondre sincerement aux dispositions que la République n'avait cessé de professer.

Ce qui doit paraître incroyable, c'est que la République et son alliance étaient sacrifiées au moment où elle redoublait ainsi d'égards pour son alliée, et que les demonstrations correspondantes du Gouvernement Fédéral n'avaient pour but que de la maintenir, ainsi que son Gouvernement, dans une fausse sécurité. Et cependant il est connu aujourd'hui que c'est à cette même époque que M. Jay, qui avait été Envoyé à Londres, seulement disait-on alors, pour négocier des arrangements relatifs aux déprédations éxercées sur le commerce Americain, par les croiseurs de la Grande Bretagne, signait un traité d'amitié, de navigation et de commerce, dont à Paris et à Philadelphie on a tenu la negociation et la signature dans le plus grand secret. Ce traité ne fut avoué à notre Ministre Plenipotentiaire, qu'à la derniere extrémité, et il ne lui fut communiqué que pour la forme, et aprés qu'il eut reçu la ratification du Sénat. Lorsque les agens de la République se sont plaints de cette conduite mystérieuse, on a repondu en invoquant l'independence des Etats Unis, solemnellement consacrée dans les traités de 1778—manière étrange de combattre un grief dont la dissimulation à laquelle on a recours démontre la réalité,—subterfuge insidieux, qui substitue au vrai point de la question, un principe général, que la République ne pouvait pas être soupçonnée de contester, et qui détruit à l'aide d'un sophisme, cette confiance intime, qui doit exister entre deux alliées, et qui surtout devait exister entre la République Française et les Etats Unis.

S'il est difficile de trouver dans cette conduite celle qu'on doit attendre d'un ami, que doit on penser du traité même, et de ses clauses? Ce traité est aujourd'hui connu de toute l'Europe; et la faible majorité à laquelle il a passé dans les deux chambres, ainsi que la multitude des vœux imposans qui se sont prononcés dans la nation contre un tel acte, déposent honorablement en faveur de l'opinion qu'en a portée le Gouvernement Français. Le soussigné ne repetera point à l'égard de ce traité, ce que son predecesseur en a dit dans sa note du 19 Ventôse precitée, et dans celle 19 Messidor suivant, et ce qui le Ministre Plénipotentiaire de la République à Philadelphie a exposé très au long dans son office du 25 Brumaire. Il se contentera d'observer sommairement, que dans ce traité tout ayant été prevue, pour faire tourner la neutralité des Etats Unis au desavantage de la République Française et à l'avantage de l'Angleterre; que le Gouvernement Fédéral ayant fait, dans cet acte, à la Grande Bretagne, les concessions les plus inouies, les plus incompatibles avec les intérêts des Etats Unis, les plus derogatoire à l'alliance qui existait, entre les dits Etats et la République Française, celle ci a été parfaitement libre, de se prevaloir pour parer au inconveniens du traité de Londres, des moyens conservatoires que lui fournissaient le droit naturel, le droit des gens, et les traités anterieures.

Tels sont les raisons qui ont determiné les arrêtés du Directoire dont se plaignent les Etats-Unis, ainsi que la conduite de ses agens aux An-

tilles. Toutes ces mesures ont pour principe l'article 2 du Traité de 1778, qui veut qu' en matière de Navigation et de Commerce la France soit toujours à l'egard des Etats Unis, sur la pied de la nation la plus favorisée. On ne peut s'en prendre au Directoire Executif, si de l'execution de cette clause eventuelle, il est resulté quelques inconvemens pour le pavillon Americain. Quant aux actes abusifs qui pouvaient sortir de ce principe, le soussigné répéte encore qu'il etait prêt à les discuter de la manière la plus amicale.

De cet exposé fidel des faits, qui ont progressivement amené entre les deux Etats la mesintelligence actuelle, il resulte comme l'a dit le soussigné, en commençant cette reponse, que l'anteriorité des griefs appartient à la République Française, et que celles de ses mesures qui ont pu motiver les plaints des Etats Unis, sont, à quelques exceptions près la consequence naturelle d'un état de choses qu'il a dependu d'eux, de faire ou de ne pas faire exister.

Le soussigné en terminant au Traité de Londres, l'exposition des griefs de la République, ne remplirait qu' imparfaitment sa tâche, et il est de son devoir de porter plus loin ses regards. Dès qu'une fois le Traité, dont il s'agit, eut été mis à execution, le Gouvernement des Etats Unis sembla se croire dispensé de garder aucune mesure envers la République, malgré l'assurance reiterée qu'on avait donné à ses ministres, que le traité ne changerait rien à l'etat préexistant de la neutralité des Etats Unis, on notifia dans le courant de l'année 1796, aux croiseurs Français, qu'ils ne pouvaient plus comme jusqu' alors, cela s'était pratiqué, être admis à vendre leurs prises dans les ports des Etats Unis. Cette decision fut rendue par la cour fédéral de justice, et motivée sur le traité conclu entre les Etats Unis et la Grande Bretagne.

Les journaux, connus pour être sous le contrôle indirect du cabinet, ont depuis le traité redoublé d'invectives, et des calomnies, contre la République, et contre ses principes, ses Magistrats et ses Envoyés; des pamphlets, ouvertement soudoyés par le Ministre de la Grand Bretagne, ont reproduit sous toutes les formes ces insultes et ses calomnies; sans que jamais un etat de choses aussi scandaleux, ait attiré l'attention du Gouvernement, qui pourrait le reprimer. Au contraire le Gouvernement lui même s'est attaché dans ses actes publics à encourager ce scandale. Le Directoire Executif s'est vu denoncé dans une discours prononcé par le President, dans le cours du mois de Mai dernier (V. S.) comme cherchant à propager l'anarchie, et la division dans les Etats Unis. Les nouveaux alliés qui la République s'est faits, et qui sont les mêmes qui contribuerent à l'indépendance des Americains, ont été également insultés, dans des correspondances officielles, qui ont été rendues publiques, ou dans les journaux. Enfin on ne peut s'empêcher de reconnaître, dans le ton des discours, et dans celui des publications qu'on vient d'indiquer, une inimitié sourde, qui n'attend que le moment pour éclater.

Les faits ainsi etablis, il est facheux d'avoir à penser, que les instructions d'après lesquelles ils ont agi, n'ont point été redigées, dans l'intention sincére, d'arriver à des resultats pacifiques; puisque loin de partir dans leur Memoire, de quelques principes avoués, et de quelques faits reconnus, les Commissaires ont intervertés et confondu les uns avec les autres, de manière à pourvoir imputer à la République tous les malheurs d'une rupture qu'on semble vouloir amener, par une marche semblable,

Il eſt évident, que le deſir, bien prononcé, de ſoutenir à tout prix le traité de Londres, qui eſt le principal grief de la République, d'adhérer à l'eſprit dans lequel ce traité a été conçu, et executé, et de n'accorder à la République aucun des moyens de reparation, qu' elle a propoſés par l'organe du ſouſſigné, ont dictés ces inſtructions. Il eſt également evident qu'on n'heſite pas à ſacrifier à ces ſentimens étranges, ceux qué devraient inſpirer les traités de 1778, et le ſouvenir des circonſtances au milieu des quelles ils ont été conclu.

Les conſequences éloignées d'une pareille conduite n'ont echappé à l'attention du Directoire. On deſire en n'omettant rien pour prolonger la mèſintelligence, et l'augmenter encore, en rejetter ſur la République tout l'odieux, aux yeux de l'Amérique et de l'Europe. On cherche à juſtifier, par des apparences trompeuſes, les preventions dont on entoure à plaiſir le nom de la République, et le ſyſtême d'exaſperation et d'éloignement, qu'on ſuit à ſon égard avec la plus étrange obſtination : ont veut enfin ſaiſir la premiere occaſion favorable, pour conſommer une union intime avec une Puiſſance envers laquelle on proteſte un devouement et un partialité, qui ſont depuis long tems le principe de la conduite du gouvernement Fédéral.

Les intentions, que le ſouſſigné attribue ici au gouvernement des Etats Unis, ſont ſi peu deguiſées, qu'on ſemble n'avoir rien negligé à Philadelphie, pour les manifeſter à tous les yeux. C'eſt vraiſemblement dans cette vue que l'on a jugé à-propos d'envoyer vers la République Françaiſe des perſonnes, dont les opinions et les relations ſont trop connus pour en eſpérer des diſpoſitions ſincérement conciliantes. Il eſt pénible pour le ſouſſigné d'être obligé de relever le contraſte de cette conduite avec celle qu'on a tenu envers le Cabinet de St. James, dans des circonſtances analogues. On s'eſt empreſſé alors d'envoyer à Londres, des Miniſtres bien connus par des ſentimens conformes à l'objet de leur miſſion.

La République aurait dû compter, ce ſemble, ſur une déférence pareille; et ſi l'on n'a point obſervé à ſon égard les mêmes convenances, il eſt beaucoup trop vraiſemblable, qu'il faut l'attribuer aux vuës indiquées plus hauts par le ſouſſigné.

Il eſt impoſſible de prevoir où peuvent conduire de telles diſpoſitions. Le ſouſſigné n'heſite point à croire que la nation Americaine, comme la nation Françaiſe, voit avec regret cet etat de choſes, et n'en enviſage les conſequences, qu' avec douleur. Il eſtime que le peuple Americain, ne ſe méprendra, ni ſur les preventions qu'on a voulu lui inſpirer contre un peuple allié, ni ſur les engagemens qu'on ſemble vouloir lui faire contracter au détriment d'une alliance, qui a ſi puiſſament contribué à lui mettre au rang des nations et a l'y maintenir ; et qu'il verra dans ces combinaiſons nouvelles, les ſeules dangers que peuvent courir ſa proſperité et ſa conſideration.

Penetré de la juſteſſe de ces reflections, et de leurs conſequences, le Directoire Executif a autoriſé le ſouſſigné à s'exprimer avec toute la franchiſe qui convient à la nation Françaiſe. Il eſt indiſpenſable qu'au NOM du Directoire il diſſipat ces preſtiges, dont on n'a depuis cinq ans ceſſé d'entourer à Philadelphie les plaintes des Miniſtres de la République, pour les attenuer, les calomnier, ou les traveſtir : il était inſtant enfin qu'en faiſant connaitre ſes ſentimens d'une manière non équivoque, il éclaircit toutes les doutes et toutes les fauſſes interpretations dont ils auraient pu être l'objet.

C'eſt donc uniquement dans la vue d'applanir la voie des diſcuſſions, que le ſouſſigné eſt entré dans les developpemens qui précédent. C'eſt dans la même vue qu'il declare aux Commiſſaires et Envoyés Extraordinaires, que malgré la ſorte de prevention qu'on a pu concevoir ſur eux, le Directoire Executif eſt diſpoſé à traiter avec celui d'eux trois dont les opinions, preſumées plus impartiales, promettent dans le cours des explications, plus de cette confiance reciproque qui eſt indiſpenſable.

Le ſouſſigné ſe flatte que cette ouverture ne ſouffrira de la part des Commiſſaires et Envoyés Extraordinaires aucune difficulté ſerieuſe. Il eſt d'autant plus naturel de l'eſperer, que par le teneur de leurs pouvoirs les dits Commiſſaires et Envoyés Extraordinaires ſont autoriſés à negocier conjointment ou *ſéparément*. Enſorte que le déſir ſeul de prévenir tout accommodement pourrait élever quelque objection contre cette meſure, qu'on ne fait au reſte qu'indiquer aux Commiſſaires eux mêmes, pour que rien ne porte ici un caractère de défavour, et qui évidemment n'a d'autre objet que d'aſſurer à la negociation une heureuſe iſſue, en écartant d'abord tout ce qui pourrait de part et d'autre réveiller dans le cours de cette negociation des ſentimens capables de la compromettre.

Le ſouſſigné eſpère que les Commiſſaires et Envoyés Extraordinaires le mettront bientôt en état de rendre compte au Directoire Executif de leur determination. Quelque puiſſe être cette determination, le ſouſſigné ſe flatte que les explications, dans leſquelles il eſt entré, auront mis la queſtion dans ſon vrai jour, et pourront éventuellement ſervir à diſſiper aux yeux de tous les hommes impartiaux, l'impreſſion défavorable dont on chercherait à atteindre les intentions de la République Françaiſe, et ſon Gouvernement. Il termine par renouveller aux Commiſſaires et Envoyés Extraordinaires l'aſſurance de ſa conſideration.

(Signé)

CH. MAU. TALLEYRAND.

Paris, 28 Ventôſe, an 6.

MESSAGE *from the* PRESIDENT *to* CONGRESS.

Gentlemen of the Senate, and
Gentlemen of the Houſe of Repreſentatives,

WHILE I congratulate you, on the arrival of General Marſhall, one of our late Envoys Extraordinary, to the French Republic, at a place of ſafety, where he is juſtly held in honor, I think it my duty to communicate to you, a letter received by him, from Mr. Gerry, the only one of the three, who has not received his Congé: this letter, together with another, from the Miniſter of Foreign Relations to him, of the third of April, and his anſwer of the fourth, will ſhew the ſituation in which he remains, his intentions and proſpects.

I preſume, that before this time, he has received freſh inſtructions (a copy of which accompanies this Meſſage) to conſent to no loans, and therefore the negociation may be conſidered at an end.

I will never ſend another Miniſter to France, without aſſurances, that he will be received, reſpected and honored, as the repreſentative of a great, free, powerful, and independent nation.

JOHN ADAMS.

United States,
June 21ſt, 1798.

Paris, 16th April, 1798.

MY DEAR SIR,

THIS I expect you will receive by my colleague General Marſhall, who carries with him the laſt letter of Mr. Talleyrand to the American Envoys, and their anſwer. On the day when we ſent the anſwer, I received a letter from the Miniſter, a copy of which and my anſwer is incloſed. I have not ſent theſe to the Secretary of State, becauſe I have not time to prepare a letter to accompany them. Indeed I expected my paſſport with my colleagues; but am informed the Directory will not conſent to my leaving France: and to bring on an immediate rupture, by adopting this meaſure contrary to their wiſhes, would be in my mind unwarrantable. The object of Mr. Talleyrand, you will perceive, was to *reſume* our reciprocal communications, and again to diſcuſs the ſubject of a loan. I thought it beſt in my anſwer not merely to object to this, but to every meaſure that could have a tendency to draw me into a negociation. I accepted of this miſſion, my dear Sir, to ſupport your adminiſtration, and have brought myſelf into a predicament*, which you muſt aſſiſt me to extricate myſelf from, by appointing ſome

* *I allude to my painful reſidence here as a political cypher.*

others to ſupply the places of myſelf and colleagues, if a further progreſs in this buſineſs ſhould be found practicable. I have only a moment to add my beſt reſpects to your lady, and my aſſurances of

The moſt ſincere and reſpectful attachment,

My dear Sir,

Of your's ſincerely,

E. GERRY.

The Preſident of the United States.

Paris, le 14 Germinal, An. 6 de la République Françaiſe, une et indiviſible.

Le Miniſtre des Relations Extérieures, à Monſieur Gerry, Envoyé Extraordinaire des Etats Unis d'Amérique près de la République Françaiſe.

JE ſuppoſe, Monſieur, que M. M. Pinckney et Marſhall ont jugé utile et convenable d'après les indications que preſente la fin de ma note du 28 Ventôſe dernier, et l'obſtacle que leurs opinions connues ont apporté au rapprochement déſiré,—de quitter le territoire de la République : dans cette ſuppoſition, j'ai l'honneur de vous indiquer le 5 ou le 7 de cette decade, pour reprendre nos communications reciproques ſur les intérêts de la République Françaiſe et des Etats Unis d'Amerique.

Recevez, je vous prie, les aſſurances de mes parfaites conſiderations.

CH. MAU. TALLEYRAND.

(TRANSLATION)

Paris, the 14 Germinal, 6th year of the French Republic, one and indiviſible [3d *April*, 1798.]

The Miniſter of Foreign Relations to Mr. Gerry, Envoy Extraordinary of the United States of America, to the French Republic.

I ſuppoſe, Sir, that Meſſrs. Pinckney and Marſhall have thought it uſeful and proper, in conſequence of the intimations given in the end of my note of the 28th Ventôſe laſt, and the obſtacle which their known opinions have interpoſed to the deſired reconciliation, to quit the territory of the Republic. On this ſuppoſition I have the honor to point out to you the 5th or the 7th of this decade, to reſume our reciprocal communications upon the intereſts of the French Republic and the United States of America.

Receive, I pray you, the aſſurances of my perfect conſideration.

CH. MAU. TALLEYRAND.

Paris, 4th April, 1798, (Germinal 15, an 6.)

I HAD the honor, citizen Miniſter, of receiving your letter of the 14th Germinal (the 3d inſt.) and Mr. Deutrement who delivered it, informed me, that it was intended to be ſhewn to Gen. Pinckney and Gen. Marſhall.

Whilſt my colleagues and myſelf, to whom the government of the United States have entruſted the affairs of the embaſſy, had a joint agency therein, I have carefully imparted to them all the propoſitions which you have requeſted, and the relative conferences; and to yourſelf our deciſions thereon; regretting at the ſame time the unfortunate and embarraſſing circumſtances which impoſed on me this diſagreeable talk. But as by the tenor of your letter it is now expected, that they will quit the territory of the French Republic, it will be impoſſible for me to be the medium of, or to take any meaſures which will be painful to my colleagues, or not to afford them all the aſſiſtance in my power; and it would be moreover inconſiſtent with the line of conduct which you well know, citizen Miniſter, I have uniformly obſerved for removing the unfavourable impreſſions which exiſted on the part of this government againſt them: indeed in our laſt letter there is a conditional application for paſſports, which, as it appears to me ſupercedes the neceſſity of a hint to them, on this ſubject; and General Marſhall is waiting impatiently for an anſwer to that part of it which reſpects a letter of ſafe-conduct for the veſſel, in which he and his ſuite may take paſſage for the United States, to determine whether he ſhall embark from France or Great Britain; but the unfortunate ſituation of General Pinckney, with reſpect to the critical ſtate of his daughter's health renders it utterly impoſſible for him to depart under exiſting circumſtances.

You have propoſed, citizen Miniſter, the 5th or 7th of this decade for me to reſume (reprendre) our reciprocal communications upon the intereſts of the French Republic and of the United States. The reciprocal communications, which we have had, were ſuch only as I have alluded to in the beginning of this letter, unleſs your propoſition accompanied with an injunction of ſecrecy, for me to treat ſeparately, is conſidered in this light. To reſume this ſubject will be unavailing, becauſe the meaſure, for the reaſons which I then urged, is utterly impracticable. I can only then confer informally and unaccredited on any ſubject reſpecting our miſſion, and communicate to the government of the United States the reſult of ſuch conferences, being in my individual capacity unauthorized to give them an official ſtamp. Nevertheleſs every meaſure in my power, and in conformity with the duty I owe my country, ſhall be zealouſly purſued, to reſtore harmony and a cordial friendſhip between the two Republics. I had the honour of calling on you laſt evening for the purpoſe of making this communication verbally, but as you were abſent, to prevent miſconceptions I have thought it beſt to reduce it to writing.

Accept I pray you, Citizen Miniſter,
the aſſurances of my perfect eſteem and reſpect.

To the Miniſter of Foreign Affairs
of the French Republic.

To Charles Cotesworth Pinckney, John Marshall and Elbridge Gerry, Esquires, Envoys extraordinary and Ministers plenipotentiary from the United States of America to the French Republic.

GENTLEMEN,

ON the 4th instant came to hand your first dispatches since you arrived at Paris; these were your numbers 1, 4, and 5; and on the 6th instant your numbers 2 and 3 were received. On the 5th, your number 5, dated the 8th of January, and a translation of the message of January 4th from the Directory to the Council of Five Hundred, were laid before Congress. In this letter you "repeat, that there exists no hope of your being officially received by that government, or that the objects of your mission will be in any way accomplished." This opinion is sanctioned by the whole tenor of your communications; and we trust that soon after the date of your number 5, you closed your mission by demanding passports to leave the territories of the French Republic.

An official copy of your letters of credence having been delivered to the Minister for Foreign Affairs, and by him laid before the Directory, they were sufficiently informed of the great objects of your mission; and considering that you were an extraordinary delegation from an independent nation, you had a right to expect a prompt and respectful reception. The fair and honourable views of the American government, which dictated your appointment and your powers, entitled you to expect the early appointment of a commission by the French government, with equal powers, to negociate on all the matters in controversy between them. Had the French government been influenced by similar views, the objects of your mission would long since have been accomplished, to the advantage and peace of both nations. But instead of coming forward on such equal and proper ground, they have treated you, and through you your country, with extreme neglect.

Under these circumstances, the President presumes that you have long since quitted Paris and the French dominions; yet, actuated as you were with an ardent desire to preserve peace, which you knew would be so grateful to your country; and having for this object manifested unexampled patience, and submitted to a series of mortifications; as you also proposed to make one more direct attempt, subsequent to the date of your last letter, to draw the French government to an open negociation; there is a bare possibility that this last effort may have succeeded:—The President therefore thinks it proper to direct—

1. That if you are in treaty, with persons duly authorized by the Directory, on the subjects of your mission, then you are to remain and expedite the completion of the treaty, if it should not have been concluded. Before this letter gets to hand, you will have ascertained whether the negociation is or is not conducted with candour on the part of the French government: and if you shall have

diſcovered a clear deſign to procraſtinate, you are to break off the negociation, demand your paſſports, and return. For you will conſider that *ſuſpenſe* is ruinous to the eſſential intereſts of your country.

2. That if on the receipt of this letter, you ſhall not have been received, or, whether received or not, if you ſhall not be in treaty with perſons duly authorized by the Directory, with full and equal powers, you are to demand your paſſports and return.

3. In no event is a treaty to be purchaſed with money, by loan or otherwiſe. There can be no ſafety in a treaty ſo obtained. A loan to the Republic would violate our neutrality: and a douceur to the men now in power, might by their ſucceſſors be urged as a reaſon for annulling the treaty, or as a precedent for further and repeated demands.

It is proper to apprize you, that a motion has been made in the Senate, and will doubtleſs be repeated in the Houſe of Repreſentatives, to deſire the Preſident to lay before them your communications; and he will probably be under the neceſſity of doing it: only withholding the two names which you promiſed ſhould in no event be made public.

I have the honour to be,
with great reſpect,
Gentlemen,
your obedient ſervant,

TIMOTHY PICKERING.

Department of State, Philadelphia,
March 23d, 1798.

discovered a clear design to procure [illegible], you are to break off the negociation, demand your passports, and return. For you will consider that [illegible] is ruinous to the essential interests of your country.

2. That if on the receipt of this letter, you shall not have been received on, whether treated or not, if you shall not be in treaty with persons duly authorized by the Directory, with full and equal powers, you are to demand your passports and return.

3. In no event is a treaty to be purchased with money, by loan or otherwise. There can be no delay in a treaty to obtain. A loan to the Executive would violate our neutrality, and a donation the open row in power, might by disgust [illegible] to a rescission for annulling the treaty, or as a precedent for future and repeated demand.

It is proper to inform you, that a motion has been made in the Senate, and will doubtless be renewed in the House of Representatives, to declare the Treaties [illegible] thereby void. Precautions; and be will probably be under the necessity of doing it only withholding the two millions which you promised should in no event be made pub[illegible]

I have the honor to be,

[illegible]

TIMOTHY PICKERING.

[illegible]